



2025:CGHC:41863

AFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 443 of 2022**

Kirti Kumar Sharma S/o Ramawatar Aged About 44 Years R/o Village - Barela,  
Police Station - Jarhagaon, District - Mungeli Chhattisgarh.

**... Appellant****versus**

State of Chhattisgarh Through Station House Officer, Police Station- Schedule  
Caste Schedule Tribe, Mungeli, District - Mungeli Chhattisgarh.

**... Respondent**

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For Appellant	: Mr. Malay Shrivastava, Advocate
For Respondent/State	: Mr. Jitendra Shrivastava, Govt. Advocate.

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**Hon'ble Shri Justice Ramesh Sinha, Chief Justice****Judgment on Board****19.08.2025**

1. Learned counsel for the appellant submits that the appellant has filed an application for grant of ad-interim relief as IA No. 1 of 2022 in the present appeal for staying the effect and operation of the judgment of conviction and order of sentence dated 02.03.2022 passed by the Special Judge (F.T.S.C.) POCSO Act, Mungeli, District Mungeli in Special Criminal Case No. 05/2020 as he is a Teacher and he has good chances of appeal being allowed and during the trial he was suspended and after conviction, till date he was not removed from services and he has already been deposited the fine.



2. Considering the fact that the appellant is a Teacher, the Court gave an option to the learned counsel for the appellant to argue the appeal finally, and with the consent of parties, the Court proceeds to hear the matter finally.
3. Accordingly, I.A. No. 1 of 2022 is rejected.
4. This criminal appeal arises out of the judgment of conviction and order of sentence dated 02.03.2022 passed by the Special Judge (F.T.S.C.) POCSO Act, Mungeli, District Mungeli in Special Criminal Case No. 05/2020, whereby the appellant has been convicted for offence under Section 12 (two times) of the Protection of Children from Sexual Offences Act, 2012 (hereinafter called as “POCSO”) and sentenced to undergo imprisonment for 02 years 01 month and 06 days and fine of Rs. 2500/-, in default of payment of fine to further undergo simple imprisonment for 02 months on each count.
5. The prosecution story, in brief, is that on 28.03.2019, complainant, Ms. Pratima Mandloi, Block Education Officer, was orally directed by the District Education Officer to conduct an inquiry regarding allegations against teacher Kirti Kumar Sharma of L.B. Government Middle School, Barela, for misbehaving with students.
6. In compliance with the said direction, the complainant visited the school on 28.03.2019 and conducted the inquiry in the presence of teachers and students. During the inquiry, the statements of teachers and students were recorded in writing. It was found that although Kirti Kumar Sharma was appointed to teach Mathematics and English, he would often enter Class 7 without authority and teach Science. During the Science classes, he used to touch various body parts of the girl students, including their spines and chests. He also consumed gutkha and *Gudakhu* (chewing



tobacco) openly in front of the students. Moreover, when the girl students went to the washroom, he used abusive and indecent language towards them.

7. Since the complaint was found to be true, the complainant forwarded the inquiry report to the District Education Officer, Mungeli, and thereafter lodged a report at Police Station Jarhagaon. On the basis of this report, a case was registered against the appellant under Sections 294, 354 and 354(क) of the Indian Penal Code and Sections 9 and 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act); and Section 3(1)(ब) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The matter was taken up for investigation.
8. During investigation, the statements of the victim girl students were recorded before the Magistrate under Section 164 of the Code of Criminal Procedure. A site map of the place of occurrence was prepared, and seizure proceedings were carried out. The statements of the victims and witnesses were documented as narrated by them. The appellant was arrested in presence of the witnesses, and an arrest memo was prepared. After completion of necessary investigation, charge-sheet was filed before the Special Judge (Atrocities), Mungeli, under Sections 294, 354, 354(क) of the IPC and Sections 9 and 10 of the POCSO Act, 2012; and Section 3(1)(ब) of the SC/ST (Prevention of Atrocities) Act. The case was duly transferred to this Court on 06.01.2021 for trial.
9. On the basis of the prosecution documents, charges were framed against the appellant under Sections 294, 509, 354, 354(क) (repeatedly) of the Indian Penal Code; Section 10 of the POCSO Act, 2012; and Section 3 of the SC/ST (Prevention of Atrocities) Act. The charges were read over and explained to the accused. The accused denied the charges and



claimed trial.

- 10.** In order to establish the charge against the appellant, the prosecution examined as many as 24 witnesses and exhibited the documents (Exs.P-1 to P-50QC). The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case. After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in para 3 of the judgment. Hence, this appeal.
- 11.** Learned counsel for the appellant submits that the judgment of conviction and the order of sentence passed by the trial Court is arbitrary, illegal, perverse, contrary to law applicable to the facts and circumstances of the present case, and not sustainable in the eyes of law. He also submits that learned trial Court failed to appreciate the entire evidence available on record in its proper perspective and also failed to appreciate the statements of the witnesses, who have clearly narrated that no incident had occurred with the victim. He further submits that the judgment of conviction and order of sentence passed by the trial Court suffer from non-consideration of the evidence on record in its proper perspective. The judgment of conviction and order of sentence are based on surmises and conjectures. He submits that learned trial Court failed to observe that the prosecution had not proved its case beyond all reasonable doubt. As such, the criminal appeal deserves to be allowed and the impugned judgment deserves to be set-aside.
- 12.** On the other hand, learned counsel for the State opposes the submissions made by learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt. He further



submits that the victims (P.W.-3) & (P.W.-9) have categorically stated that the accused / appellant had deliberately touched the body and chest of the girls and their friends while studying in the school. It is further respectfully submitted that the version given by the victim girls were duly supported by other prosecution witnesses and learned trial Court after considering the material available on record has rightly convicted and sentenced the appellant, in which no interference is called for.

- 13.** I have heard the learned counsel for the parties and perused the record with utmost circumspection.
- 14.** The issue that arises for consideration in the present appeal is whether the testimony of the victims deserve acceptance and whether the prosecution has established the case against the appellant beyond reasonable doubt.
- 15.** It is pertinent to observe that the question whether conviction of the appellant can be based on the sole testimony of the victims in cases of sexual assault is no longer res integra. The Hon'ble Supreme Court has dealt with the issue in a catena of judgments and has held that the sole testimony of the victim if found reliable can be the sole ground for convicting the appellant and that the creditworthy testimony of the victim in cases of such nature deserves acceptance.
- 16.** Insofar as, age of the victims P.W.3 and P.W.9 on the date of the commission of the offence are concerned, they were admittedly 12 years and 08 months and 12 years and 01 month old respectively at the time of the unsavory incident.
- 17.** According to the testimony of teacher Lavina Luther (PW-02) and the admission register (EX. P-50C) produced by her, the date of birth of the



victim (PW-03) is 20.06.2006, and since the incident occurred around one month prior to 28.03.2019, the age of the said victim at the time of the incident was 12 years and 8 months. Furthermore, at the time of admission, both victim PW-03 and PW-09 were minors.

- 18.** The Victim (PW-03) stated that accused, Kirti Sharma, was a teacher in her school and used to teach Mathematics and English. While she was sitting in her class, the accused stroked her back. When she narrated the incident to her parents, they told her to go to the police station along with the lady teachers. Regarding the incident, Qureshi Sir and the BEO Madam had come to the school and inquired into the matter. Prior to this, her statement had also been recorded before the Court and the Child Welfare Committee.
- 19.** The victim (PW-09) stated that when she was studying in class 7th, during lunch break, while they were playing, accused, Kirti Sharma, sat beside her and started touching her body. She told him that she did not like it, but the appellant replied that he liked it. She then went to Qureshi Sir and informed him about the incident, and also told her madam, parents, and grandparents about it. The victim further stated that during lunch, the appellant would sit close to her and touch her body, which made her uncomfortable. When she expressed her discomfort, the accused said he felt good. She reported this incident to her teacher Qureshi, madam, parents, and the police.
- 20.** Deepika Miri (PW-01) has stated that she is studying in Class 8 at Government Middle School, Barela. The appellant is a teacher at her school and teaches Mathematics and English subjects. The appellant used to touch the bodies and chests of the girls studying in the school, including her friends, though he did not touch her. The police questioned



her and recorded her statement.

21. Teacher Upasana Gopal (PW-10) also testified that in the school staff room, 7th-grade students had told her that the appellant used to touch them inappropriately, which made them uncomfortable.
22. Block Education Officer Dr. Pratibha Mandloi (PW-15) investigated the accused's behavior under the district education officer's direction. The investigation revealed that the accused touched students' various body parts, used foul language, and consumed gutkha and gudakhu in front of students. The findings were submitted to the District Education Officer in Mungeli, which were corroborated by the investigation report (Ex. P-27).
23. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation



with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

**24.** In the matter of **Alakh Alok Srivastava v. Union of India & Ors., (2018) 17 SCC 291**, in paras 14 and 20, it is observed as under:

"14. At the very outset, it has to be stated with authority that the Pocso Act is a gender legislation. This Act has been divided into various chapters and parts therein. Chapter II of the Act titled "Sexual Offences Against Children" is segregated into five parts. Part A of the said Chapter contains two sections, namely, Section 3 and Section 4. Section 3 defines the offence of "Penetrative Sexual Assault" whereas Section 4 lays down the punishment for the said offence. Likewise, Part B of the said Chapter titled "Aggravated Penetrative Sexual Assault and Punishment therefor" contains two sections, namely, Section 5 and Section 6. The various subsections of Section 5 copiously





deal with various situations, circumstances and categories of persons where the offence of penetrative sexual assault would take the character of the offence of aggravated penetrative sexual assault. Section 5(k), in particular, while laying emphasis on the mental stability of a child stipulates that where an offender commits penetrative sexual assault on a child, by taking advantage of the child's mental or physical disability, it shall amount to an offence of aggravated penetrative sexual assault.”

“20. Speaking about the child, a three Judge Bench in *M.C. Mehta v. State of T.N.* (1996) 6 SCC 756 “1. ... “child is the father of man”. To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.”

**25.** The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand** (CRIMINAL APPEAL NO.144 OF 2022), decided on 8.2.2022 has held as under:-

“10. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody commits any offence under the POCSO Act of sexual assault, sexual harassment or use



of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas. As observed and held by this Court in the case of **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In the case of **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a minor who is subjected to sexual abuse needs to be protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

- 26.** When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of



the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version. In **State of H.P. v. Shree Kant Shekar (2004) 8 SCC 153** the Hon<sup>ble</sup> Supreme Court held as follows:

“21. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands on a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is physical as well as psychological and emotional. However, if the court on facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration, as understood in the context of an accomplice, would suffice.”

**27.** On these lines, the Hon<sup>ble</sup> Supreme Court in **Shivasharanappa and Others v. State of Karnataka, (2013) 5 SCC 705** observed as follows:

“17. Thus, it is well settled in law that the court can rely upon the testimony of a child witness and it can form the basis of conviction if the same is credible, truthful and is corroborated by other evidence brought on record. Needless to say as a rule of prudence, the court thinks it desirable to see the corroboration from other reliable evidence placed on record. The principles that apply for placing reliance on the solitary statement of the witness, namely, that the statement is true and correct and is of quality and cannot be discarded solely on the ground of lack of corroboration, apply to a child witness who is competent and whose version is reliable.”



**28.** The Supreme court in the matter of **State of UP v. Sonu Kushwaha, (2023) 7 SCC 475** has held as under :

“12. The POCSO Act was enacted to provide more stringent punishments for the offences of child abuse of various kinds and that is why minimum punishments have been prescribed in Sections 4, 6, 8 and 10 of the POCSO Act for various categories of sexual assaults on children. Hence, Section 6, on its plain language, leaves no discretion to the Court and there is no option but to impose the minimum sentence as done by the Trial Court. When a penal provision uses the phraseology “shall not be less than....”, the Courts cannot do offence to the Section and impose a lesser sentence. The Courts are powerless to do that unless there is a specific statutory provision enabling the Court to impose a lesser sentence. However, we find no such provision in the POCSO Act. Therefore, notwithstanding the fact that the respondent may have moved ahead in life after undergoing the sentence as modified by the High Court, there is no question of showing any leniency to him. Apart from the fact that the law provides for a minimum sentence, the crime committed by the respondent is very gruesome which calls for very stringent punishment. The impact of the obnoxious act on the mind of the victim/child will be lifelong. The impact is bound to adversely affect the healthy growth of the victim. There is no dispute that the age of the victim was less than twelve years at the time of the incident. Therefore, we have no option but to set aside the impugned judgment of the High Court and restore the judgment of the Trial Court.”

**29.** Considering the statements of the two victims, i.e., PW-3 and PW-9, who have categorically deposed before the trial Court that they were sexually assaulted by the appellant, who was their teacher, and since their testimonies stand corroborated by PW-1, another minor student, who also stated that her friends, PW-3 and PW-9, were sexually assaulted by the appellant, the evidence of PW-3 and PW-9 falls within the category of



sterling witnesses. There is no cogent reason to discard their testimonies. Furthermore, based on the complaint made by the parents to the higher authorities, the statement of Block Education Officer, Dr. Pratibha Mandloi (PW-15), was also recorded before the trial Court, wherein she too deposed that she received information from the parents and the staff of the school that the appellant had sexually assaulted the two minor victims. In view of the material available on record and the principles of law laid down by the Hon'ble Supreme Court in the aforementioned judgments, I am of the considered opinion that the learned Special Judge has rightly convicted the appellant for the offence under Section 12 (two counts) of the POCSO Act. I find no illegality or irregularity in the findings recorded by the trial Court.

- 30.** In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the Special Judge to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.
- 31.** It is stated at the Bar that the appellant has already been served out the jail sentence as awarded by the trial Court and has also been deposited the fine amount imposed upon him.
- 32.** Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

**Sd/-**

(Ramesh Sinha)  
**Chief Justice**

**HEAD NOTE**

A teacher holds a position of trust and responsibility. Any sexual, abusive, or exploitative act with a minor student is not just professional misconduct, but a grave criminal offence punishable under the POCSO Act, as it amounts to child exploitation and invites strict punishment.