



2026:CGHC:889-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 2137 of 2024

1 - Mohammad Mansoor S/o Mohammad Rasool Aged About 21 Years R/o Parapa Naka Geedam Road Gurugovind, Ward No. 36 Jagdalpur, Police Station- Parapa, District Bastar, Chhattisgarh.

2 - Narayan Dhruv S/o Munnalal Dhruv Aged About 19 Years R/o Kalipur Awaspura Jagdalpur, Police Station- Parapa, District Bastar, Chhattisgarh.

... **appellants(s)**

versus

1 - State Of Chhattisgarh Through P.S.- Farasgaon, District : Kondagaon, Chhattisgarh

..**Respondent(s)**

For appellants No.1 /Mohammad Mansoor	:Ms. Sareena Khan, Advocate.
For appellants No. 2/Narayan Dhruv	:Mr. Pravin Kumar Tulsyan, Advocate.
For Respondent/State	: Mr. Priyank Rathi, G.A.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

Per Arvind Kumar Verma, Judge.

07.01.2026

1. Heard Ms. Sareena Khan, learned counsel for the appellants No. 1 and Mr. Pravin Kumar Tulsyan, learned counsel for appellants No. 2. Also heard Mr. Priyank Rathi, learned G.A., appearing for the respondent/State.

2. In pursuance of notice issued to victim, Today, father of the victim appeared before this Court through DLSA Kondagaon and raised objection in releasing the appellants on bail.

3. This criminal appeal preferred under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 is directed against the impugned judgment of conviction and order of sentence dated 22.10.2024, passed by the learned Additional Session Judge FTSC (POCSO Act 2012) Kondgagaon District Kodgagaon (C.G.) in Special Session Case No. 62/2022, whereby the appellants has been convicted and sentenced as under:

<u>appellant No. 1</u> <u>Conviction</u>	<u>Sentence</u>
Section 363 of the Indian Penal Code (<i>for short, 'IPC'</i>)	Rigorous imprisonment (<i>for short, 'R.I.'</i>) for 5 years and fine of Rs.1,000/-, in default of payment of fine, 01 month Additional R.I.
Section 366A of the IPC	R.I. for 05 years and fine of Rs. 1000/-, in default of payment of fine, 01 month Additional R.I.
Section 376(3) of the IPC	R.I. for 20 years and fine of Rs. 1000/-, in default of payment of fine, 01 month Additional R.I.
Section 4(2) of POCSO	R.I. for 20 years and fine of Rs. 1000/-, in default of payment of fine, 01 month Additional R.I.
All the sentences were directed to run concurrently.	

<u>appellant No. 2</u> <u>Conviction</u>	<u>Sentence</u>
Section 212 of the Indian Penal Code (<i>for short, 'IPC'</i>)	Rigorous imprisonment (<i>for short, 'R.I.'</i>) for 3 years and fine of Rs.1,000/-, in default of payment of fine, 01 month Additional R.I.
Section 17 of POCSO	R.I. for 20 years and fine of Rs. 1000/-, in default of payment of fine, 01 month Additional R.I.

Both the sentences were directed to run concurrently.

4. Brief facts of the case are that, on 19.02.2022, the father (PW-2) of the victim, lodged a written complaint (Ex.P-08) at the Farasgaon Police Station mentioning therein that on **13.09.2022**, the prosecutrix, who is the daughter of the complainant, left her house in the morning as usual to go to school. At that time, the prosecutrix informed her friends that she was going to school on a motorcycle with her maternal uncle, Mohammad Mansoor, and that she would return before the school bell rang. After stating so, she left with the said person. On the same day, the class teacher of the school telephonically informed the mother of one of the prosecutrix's friends that the prosecutrix had not attended school that day and requested her to inform the parents of the prosecutrix. Pursuant thereto, the mother of the prosecutrix's friend informed the mother of the prosecutrix over the phone, whereupon it came to light that the prosecutrix had not reached school. Subsequently, upon making inquiries, it was revealed that the accused Mohammad Mansoor, who had come to Farsgaon about one and a half months earlier, had taken the prosecutrix with him on a motorcycle. When the father of the prosecutrix contacted his

brother-in-law, Mohammad Mansoor, he admitted that he had taken the prosecutrix with him on the motorcycle. From the aforesaid facts and circumstances, it is evident that the accused Mohammad Mansoor, by inducing and alluring the prosecutrix, abducted her and took her away from the lawful guardianship of her parents. Based upon the said report, FIR (Ex.P/08) was registered against the appellantss for offence punishable under Sections 363 of Indian Penal Code. During investigation, On 22.09.2022, the abducted minor girl was recovered in the presence of witnesses Sakshi Devendra Mahavir (PW-13) and Dhan Shyam Yadav (PW-14), and a recovery panchnama (Ex. P-01) was prepared. Thereafter, the statement of the prosecutrix was recorded, wherein she stated that on 19.09.2022, the accused Mohammad Mansoor, by inducing and alluring her on the pretext of marriage, abducted her and took her to Jagdalpur to the house of his friend Narayan Dhruv, where both of them stayed for one night. During that night, the accused established physical relations with her, and prior thereto also, the accused had established physical relations with her at Farsgaon. On the basis of the statement of the prosecutrix, offences under Sections 366, 376(3), 376(2)(d) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 were added against the accused Mohammad Mansoor and taken up for investigation. Further, since the accused Narayan Dhruv had provided shelter to his friend Mohammad Mansoor and the prosecutrix at his house and had assisted them in reaching Jagdalpur Railway Station, offences under Sections 212 and 34 of the Indian Penal Code were added against him. On the same date, i.e., 22.09.2022, for the purpose of obtaining transit

remand of the accused and the prosecutrix, a letter (Ex. P-32) was submitted to the Court of the A.C.J.M., Kharagpur. The transit remand order sheets passed by the A.C.J.M. Court, Kharagpur are Ex. P-33 and Ex. P-34. The prosecutrix and the accused were taken into custody at the spot, and inspection memos (Ex. P-35 and Ex. P-36) were prepared accordingly.

5. Learned trial Court framed charges for the offences punishable under Sections 363, 366A & 376(2)(a) of IPC and Section 6 of the POCSO Act read over and explained to the accused Mohammad Mansoor, who abjured his guilt and Sections 212 of IPC and Section 17 of the POCSO Act read over and explained to the accused Narayan Dhurv, who abjured his guilt.

6. In order to bring home the offence, the prosecution examined as many as 20 witnesses and exhibited 48 documents in support of case of the prosecution. The appellants have neither examined any witness in their defence nor exhibited any document.

7. After appreciation of oral as well as documentary evidence produced by the prosecution, the learned trial Court has convicted the appellants and sentenced him as mentioned in paragraph 02 of this judgment. Hence this appeal.

8. Learned counsel for the appellants has submitted that the prosecution have failed to prove its case beyond reasonable doubt. There are material omission and contradictions in the evidence of prosecution witnesses. The prosecution has failed to produce the cogent and legally admissible evidence with respect to age of the victim to hold that on the

date of incident she was minor. The author of the School Admission and Discharge Register have not been examined and the basis on which the date of birth of the victim is recorded in the said school register have also not been proved. No any Kotwar register, birth certificate have been produced by the prosecution for determination of the actual age of the victim.

9. He would further submit that the victim was having love affair with the appellants and she herself eloped with him on her own sweet will and resided with him for about one month in Jagdalpur and she has not made any complaint to anyone while going with the appellants by Bus or Train. She has not raised any alarm while she has been taken by the appellants and also while staying with him and making physical relation with him. The evidence of the victim does not inspire the confidence and therefore no offences under IPC and POCSO Act are made out against the appellants and he is entitled for acquittal.

10. On the other hand, learned State Counsel opposed the submissions of learned counsel for the appellants and submitted that the offences committed by the appellants were heinous in nature and thus, the trial Court had rightly convicted him. He submitted that the trial Court had considered all the arguments made by the appellants and there was sufficient evidence to prove his guilt beyond a reasonable doubt. Moreover, the victim was minor and below 18 years of age at the time of incident which is proved by the admission – discharge register which contains the date of birth of the victim as 19.09.2009. The evidence of the victim need not be required for any corroboration and on the sole testimony of the victim the conviction can be made. Therefore, there is no

illegality or infirmity in the findings of the learned trial Court and the impugned judgment of conviction and order of sentence needs no interference.

11. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection and carefully as well.

12. With regard to the age of the victim, the prosecution has mainly relied upon the admission – discharge register (Ex.P/12), which is seized by the Police and as per the admission – discharge register, the date of birth of the victim is 11.08.2004, which is sought to be proved by the PW-3. PW-3 in his deposition has stated that the police had seized School Admission and Discharge register with respect to date of birth of the victim vide seizure memo Ex.P/13 and according to which the date of birth of the victim is recorded as 19.09.2009. In the school register the victim was admitted in Class -KG-1 on 20.06.2012. In cross-examination, she has admitted that the endorsement with respect to date of birth of the victim in the said school register is not in his handwriting. He did not know as to who had taken her to the school for her admission. He also did not know as to on what basis her date of birth has been recorded in the said school register

13. The victim (PW-1), in her deposition before the learned trial Court stated that The prosecutrix (**PW-01**) deposed that she is acquainted with the accused **Mohammad Mansoor** and **Narayan Dhruv**. She stated that in the same year, accused Mohammad Mansoor had come to her

village and stayed at his brother-in-law's house, during which time she came to know him. She further stated that she stayed for one day with accused Mansoor at the house of accused Narayan Dhruv, and since then she has known Narayan Dhruv as well. She deposed that after the accused Mansoor left his brother-in-law's house, he used to tell her friends that he loved her and liked her, though she herself never had any such conversation with him. She further stated that on the day of her birthday, while she was going to school with three of her friends, she met the accused Mansoor on the way. The accused asked her to accompany him on his motorcycle for a ride, which she initially refused. Thereupon, the accused threatened that if she did not go with him, he would come under a vehicle. Being frightened by the threat, she accompanied him on his motorcycle, and he took her to Ghumar Dam. She further deposed that after receiving a phone call from his brother-in-law, the accused took her to the house of accused Narayan Dhruv and kept her there for one day in the same room. At the said place, accused Mansoor established physical relations with her once. On the next day, the accused took her to a railway station (the name of which she does not know), made her board a train going towards West Bengal, and took her along with him. After reaching West Bengal, she informed her parents telephonically that she was with the accused. The prosecutrix was declared hostile, and upon being cross-examined by the Special Public Prosecutor, she admitted that the accused Mohammad Mansoor, on the false promise of marriage, induced and allured her and forcibly established physical relations with her. However, in the medical examination done by Dr. Jyoti Kange (PW-09) no injuries were found on her body. Even the father (PW-2) or any other

witness have not stated anything that she had sustained any injuries which goes to suggest that such statements were an afterthought. Even the FSL report as well as MLC report were found to be negative. Doctor has also stated that no definite opinion could be given with regard to any forceful sexual intercourse.

14. Father of the victim (PW-2) has stated in his deposition that The father of the prosecutrix (PW-02) deposed that he knows and can identify the accused Mansoor and Narayan Dhruv. He does not remember the date of birth of the prosecutrix. He stated that the prosecutrix is his daughter. About one week after lodging the complaint, the police informed him telephonically that the prosecutrix had been traced at Kharagpur, West Bengal. Two days after receiving the said information, the police brought the prosecutrix and the accused to Police Station Farsgaon, and upon being informed thereof, he went to the said police station to meet his daughter. He further stated that he did not make any inquiry from the prosecutrix at that time, nor did the prosecutrix narrate anything to him. The witness was declared hostile by the Special Public Prosecutor, and upon being put leading questions, he denied having stated before the police that his wife had informed him that upon inquiry, the prosecutrix disclosed that the accused Mansoor had induced and allured her on the promise of marriage and had taken her from Farsgaon on a motorcycle. However, the witness admitted that the accused had taken the prosecutrix to the house of accused Narayan Dhruv and that during the night, the accused forcibly established physical relations with her.

15. Dr. Jyoti Kange (PW-09): She is the doctor who had examined the victim on 24.09.2022. She stated that she found the victim physically and

mentally fit and was of average built. There were no injuries on the body. She had prepared two slides from the vaginal secretion and handed over to the Police for chemical examination. She has further stated that no definite opinion could be given with regard to forceful sexual intercourse.

16. Dr. Rajat Kumar Pandey(PW-06), who has examined the accused, had stated that on general examination he found that the accused was normal and his mental condition was also normal. His secondary sexual characteristics were fully developed. Chremastic reflex was present, there was no injury on his body and smegma was absent. According to his opinion, the accused was capable to commit sexual intercourse. The report given him is Ex.P/16

17. Dr. KamalKant Shori (PW-10), has stated in his deposition that On 29.09.2022, the prosecutrix was produced before the witness at District Hospital, Kondagaon by Woman Constable No. 218, Samari of Police Station Farsgaon for the purpose of age determination. Upon conducting X-ray examination of the prosecutrix's shoulder, elbow, hand, hip, knee, and foot, the following findings were recorded: The upper end of the humerus was found to be fused with the shaft, the usual age of such fusion being 16–17 years. The lower end of the humerus was found to be fused, the usual age of fusion being 13–14 years. The lower ends of the radius and ulna were found to be fused, the usual age of fusion being 16–17 years. The metacarpal bones of the fingers were found to be fused, the usual age of fusion being 15–16 years. The iliac crest was present but not fused; the usual age of appearance being around 14 years and the usual age of fusion being 18–19 years. The calcaneal epiphysis was found to be fused with the calcaneum, the usual age of fusion being 15–16 years.

Based on the aforesaid radiological findings, the witness opined that, as per the X-ray report, the age of the prosecutrix was between 15 and 17 years. The examination report issued by the witness has been exhibited as Ex. P-24. In the cross-examination of this witness, no material contradiction or evidence was elicited to discredit the fact that the ossification test of the prosecutrix had been conducted by the witness. During cross-examination, he stated that it is true that diet and climate have an effect on the development of bones. It is true that for this reason there is a difference of two years in the ossification report.

18. Regarding the ossification report, it should only be considered as evidence of age if no other documentary evidence is available. It should be noted the ossification report provided an estimated age that may have margin of error of upto 02 years. In this case, the certified copy of the admission register (Ex.P/12) clearly states the victim's birth date as 19.09.2009, indicating she was approximately 15-16 years old at the time of the incident. But, when the victim was enrolled in school, the parents did not provide her birth certificate or any other document related to her birth in the present case.

19. After considering the entire facts and circumstances of the case and evidence available on record, the age of the victim is stated to be 15-17 years by the victim herself and her father. However, fact of the matter remains that the admission/discharge register presented before the learned trial Court was with regard to Class KG-1 in which the victim had taken admission. Even the basis of entry of date of birth as 19.09.2009 has not been proved.

20. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for presumption and determination of age. The same reads as under:

“94. Presumption and determination of age.— (1) *Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.*

(2) *In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—*

(i) *the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;*

(ii) *the birth certificate given by a corporation or a municipal authority or a panchayat;*

(iii) *and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:*

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) *The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.”*

21. In the case in hand, only the date of birth mentioned in the admission/discharge register of the KG-1 Class has been produced which cannot be said to be a conclusive proof because what was the basis of

mentioning the date of birth in that certificate is also not known. Neither any Kotwar Register nor the birth certificate from any competent authority has been produced so as to arrive at a conclusion that the victim was a minor on the date of incident. As such, the finding arrived at by the learned trial Court that the victim was a minor on the date of incident is incorrect and the benefit of the same ought to have been given to the appellants.

22. Further, the learned trial Court has also overlooked the fact that the victim remained with the appellants at his friend's home in Jagdalpur for about 09 days without making any hue and cry. In her deposition, she has clearly stated that she has never made any complaint nor informed to anyone that she was being kept there forcefully. The conduct of the victim herself goes to suggest that it is a case of elopement and not kidnapping.

23. The victim was examined by Dr. Jyoti Kange (PW-9) who after examining externally, in her report has stated that axillary hair were present, breast developed according to age and pubic hair was also present. On internal examination, she found vulva vagina healthy, hymen was ruptured, no signs of struggle present, no injury or any blood stain was present around vagina, breast, thighs or any parts of the body. She had prepared two vaginal smear and was handed over to the Police constable to send it to the FSL for further investigation and examination.

24. Even the prosecution has not explained as to how the victim was taken from one place to another and by which means. Unless the victim would have voluntarily agreed to accompany the appellant- Mohammad Mansoor, it was quite difficult for the appellant Mohammad Mansoor to drag/take away the victim along with him to another place Although the

prosecutrix (PW-01) stated that she was taken by the main accused Mansoor to the house of accused Narayan Dhruv and that she stayed there in the same room where physical relations were established by Mansoor, she did not attribute any overt act, inducement, or participation to accused Narayan Dhruv in the commission of the alleged offence. Her testimony is limited to the extent that the house belonged to Narayan Dhruv.

25. From the conduct of the victim herself, it appears to be a case of elopement. Even the FSL as well as MLC report does not support the case of the prosecution as neither semen nor human sperm was found on the undergarments or the vaginal slides.

26. In ***Jarnail Singh v. State of Haryana***, reported in **(2013) 7 SCC 263**, the Hon'ble Supreme Court, at paragraph 23 has observed as under:

“23. Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can

be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.”

27. When the FSL report also does not confirm commission of any sexual offence as no semen or human sperm has been found on the articles mentioned above, and the conduct of the victim herself who never made any attempt for her rescue, the prosecution has failed to prove its case beyond reasonable doubt against the appellant- Mohammad Mansoor.

28. In ***Alamelu & Another v. State, represented by Inspector of Police***, reported in ***(2011) 2 SCC 385***, where the facts and circumstances were similar to that of this case, the Hon’ble Supreme Court observed as under:

“51. This Court in Rameshwar v. State of Rajasthan {AIR 1952 SC 54} declared that corroboration is not the sine qua non for a conviction in a rape case. In the aforesaid case, Vivian Bose, J. speaking for the Court observed as follows:-

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it,

must be present to the mind of the judge, ... The only rule of law is that this rule of prudence must be present to the mind of the judge or the jury as the case may be and be understood and appreciated by him or them. There is no rule of practice that there must, in every case, be corroboration before a conviction can be allowed to stand."

52. The aforesaid proposition of law has been reiterated by this Court in numerous judgments subsequently. These observations leave no manner of doubt that a conviction can be recorded on the sole, uncorroborated testimony of a victim provided it does not suffer from any basic infirmities or improbabilities which render it unworthy of credence.

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54. Even PW5, Thiru Thirunavukarasu stated that Sekar (A1) had brought the girl with him to his house and told him that he had married her. They had come to see Trichy and requested a house to stay. This witness categorically stated that he thought that they were newly married couple. He had made them stay in door no. 86 of the Police Colony, which was under his responsibility. On 10th August, 1993, the police inspector, who arrived there at 10.00 p.m. told this witness that Sekar (A1) had married the girl by threatening her and "spoiled her". The girl, according to the prosecution, was recovered from the aforesaid premises. Therefore, for six days, this girl was staying with Sekar (A1). She did not raise any protest. She did not even complain to this witness or any other residents in the locality. Her behavior of not complaining to anybody at any of the stages after being allegedly abducted would be wholly unnatural.

55. Earlier also, she had many opportunities to complain or to run away, but she made no such effort. It is noteworthy that she made no protest on seeing some known persons near the car, after her alleged abduction. She did not make any complaint at the residence of Selvi, sister of Sekar (A1) at Pudupatti. Again, there was no complaint on seeing her relatives allegedly assembled at the temple. Her relatives apparently took no steps at the time when mangalsutra was forcibly tied around her neck by Sekar (A1). No one sent for police help even though a car was available. She made no complaint when she was taken to the house of PW5, Thiru Thirunavukarasu and stayed at his place. Again, there was no protest when Sekar (A1) took her to the police

station on 5th day of the alleged abduction and told at the Tiruchi Police Station that they had already been married. The above behaviour would not be natural for a girl who had been compelled to marry and subjected to illicit sexual intercourse.

56. In view of the aforesaid, we are of the considered opinion that the prosecution has failed to prove beyond reasonable doubt any of the offences with which the appellants had been charged. It appears that the entire prosecution story has been concocted for reasons best known to the prosecution."

29. In view of the above discussion, this Court is of the considered opinion that the judgment passed by the learned trial Court needs interference.

30. So far as **Appellant Mohammad Mansoor** is concerned, upon an overall and careful appreciation of the entire evidence on record, this Court finds that the prosecution has failed to establish the guilt of accused Mohammad Mansoor beyond reasonable doubt. The testimony of the prosecutrix (PW-01), which forms the support of the prosecution case, is inconsistent and vacillating on material particulars. She was declared hostile and, even after being confronted by the Special Public Prosecutor, her evidence does not provide a cogent, reliable, and unambiguous account sufficient to sustain conviction. The alleged inducement, abduction, and sexual assault are not proved in a manner consistent with the statutory ingredients of the offences charged. The evidence of the parents of the prosecutrix is largely derivative and hearsay, and does not independently corroborate the prosecution version. Though the medical evidence indicates the age range of the prosecutrix, it does not conclusively establish forcible sexual assault attributable to the accused in the manner alleged. There is also absence of independent corroborative evidence, despite the alleged movements across public

places and inter-State travel, which further weakens the prosecution case. Consequently, the accused **Mohammad Mansoor** is entitled to the benefit of doubt and is hereby acquitted of all the charges levelled against him.

31. So far as the appellant- **Narayan Dhruv** is concerned, upon careful appreciation of the evidence on record, this Court finds that the prosecution has failed to establish the guilt of accused Narayan Dhruv beyond reasonable doubt. The evidence of the prosecutrix (PW-01) merely indicates that she was taken by the main accused Mansoor to the house of Narayan Dhruv and stayed there for a day. No overt act, active participation, instigation, or facilitation has been attributed to Narayan Dhruv in her testimony. The prosecutrix has not stated that Narayan Dhruv was present at the time of the alleged incident, nor that he had any prior knowledge of the offence or shared a common intention with the main accused. Likewise, the testimony of the mother of the prosecutrix (PW-04) is purely hearsay in nature insofar as Narayan Dhruv is concerned and does not assign any specific role to him. There is also no independent or corroborative evidence to prove that Narayan Dhruv knowingly harboured the prosecutrix with the intention of facilitating the commission of the offence. In the absence of cogent and convincing evidence satisfying the ingredients of Sections 212 IPC and 17 of POCSO, the benefit of doubt necessarily accrues to accused Narayan Dhruv. Accordingly, accused Narayan Dhruv is entitled to acquittal from all the charges levelled against him.

32. For the foregoing reasons, the appeal is **allowed**. The judgment of conviction and order of sentence dated 22.10.2024 passed in Session

Case No. 62/2022 is set aside. The appellants stand acquitted of all the charges levelled against them.

33. The appellant **Mohammad Mansoor** is reported to be in jail since 22.09.2022. The appellant **Narayan Dhruv** is reported to be in jail since 22.10.2024. They be released forthwith if not required in any other case.

34. Keeping in view the provisions of Section 437-A of the Cr.P.C., the appellants-**Mohammad Mansoor and Narayan Dhruv** are directed to furnish a personal bond for a sum of Rs. 25,000/- with two sureties each in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellants, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

35. Registry is directed to transmit the trial Court record along with a copy of this order to the Court concerned forthwith for necessary information and compliance.

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice