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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 9th April, 2026

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+ **CRL.A. 10/2019**

MOHD. ZAMIL

.....Appellant

Through: Mr. S.S Ahluwalia, with Ms. Saniya Zehra, and Mr. Prince Balyan, Advs. along with Appellant in person

versus

STATE

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with Ms. Divya Yadav, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant- Mohd. Zamil under Section 374(2) of the Code of Criminal Procedure, 1973 (hereinafter, 'CrPC') challenging the judgment dated 7th August, 2018 (hereinafter, '*impugned judgment*') and order on sentence dated 10th August, 2018 passed by the Id. Additional Sessions Judge (North West)-01, Special Court, POCSO, Rohini District Court in *Sessions Case No. 123/2014* arising out of *FIR No. 139/2014* registered at P.S. Kanjhawala.
3. *Vide* the impugned judgment, the Appellant has been convicted for offences punishable under Section 6 read with Sections 5(l) and 5(n) of the



Protection of Children from Sexual Offences Act, 2012 (hereinafter, 'POCSO Act') and Section 506(i) of the Indian Penal Code, 1860 (hereinafter, 'IPC'). The Appellant has been sentenced *vide* order on sentence dated 10th August, 2018 in the following terms:

“(i) For the offence u/s 506 (i) IPC, the convict Mohd. Zamil is sentenced to Rigorous Imprisonment for a period of two years along with a fine of Rs. 1,000/- (Rs. One thousand only), in default of payment of fine, to undergo S.I for one month.

(ii) For offence u/s 6 of POCSO Act, the convict Mohd. Zamil is sentenced to life imprisonment, along with fine of Rs. 10,000/-, in default of payment of fine, to further undergo simple imprisonment for six months.”

4. The allegation against the Appellant was that he had repeatedly indulged in sexual assault of his own daughter (hereinafter, 'Prosecutrix'), who was a minor. On 22nd February, 2014, the prosecutrix was taken by her mother to the hospital wherein, she was found to be pregnant. Initially, the prosecutrix had falsely implicated a friend, however, thereafter she had made a statement that she was repeatedly subjected to sexual assault by her own father.

5. Upon the incident being reported, the exhibits were seized from the victim *i.e.*, the prosecutrix and the same were sent to Forensic Science Laboratory (hereinafter, 'FSL') on 25th February, 2014. The FSL Reports which were prepared, revealed that the DNA of the foetus matched with the DNA of the father of the prosecutrix. Thus, the Trial Court came to the conclusion that the offences under Sections 5 and 6 of the POCSO Act were made out.

6. Insofar as the date of birth of the prosecutrix was concerned, in her



school records, the date of birth was recorded as 15th October, 1999 whereas in her Aadhar Card which was prepared during the course of the trial of the case, the date of birth was recorded as 15th October, 1996. The Trial Court went by the school records and observed that the Aadhar Card was made at the instance of the mother who was also making an attempt to not completely disclose the true facts.

7. Further, the prosecutrix had not reported the incident contemporaneously in October-November of 2013 as per her testimony. The prosecutrix in her statements stated that she was repeatedly threatened by her father that he would stop taking care of them and also would not give the monthly expenses. The Trial Court has extracted the testimony of the prosecutrix in the impugned judgment. The relevant portion of the impugned judgment reads as under:

“PW-8 is the victim herself who stated that she was working in an NGO where she came in touch with Honey Singh and became friendly with him. Neither Honey Singh nor her father had committed anything wrong with her and she does not want to tell the name of person who raped her. She stated that her mother took her to the hospital and her statement was recorded twice in the court by one judge on 26.02.2014 and on 03.03.2014. She was declared hostile by Ld. APP where she denied having made any statement to the police that Honey Singh or her father had committed any wrong act with her. She however admitted that "Police wali aunty ne kaha ki tu kisi ka bhi naam likhwa de to case khatam ho jayega isiliye pahle meine Honey Singh ka naam likhwa diya tha. Papa ka naam meine baad main likhwaya jab meri dadi wagera jhagda karne lagi..... Meine judge sahab ko apne 03.03.2014 ke bayan main bataya tha ki mere papa daru pee kar aaye aur unhone bola ki agar mein kisi ko bataungi to tun logo ka kharcha nahin milega



aur ghar se bhi nikal diye jayoge aur uske baad papa ne mere saath sharirk sambandh banaye aur aise papa ne mere saath teen baar kiya.... Ye bhi kahana theek hai ki mein aur meri mother nahin chahte the ke mere papa ka naam aaye.... doctor ko apne aap kuchh nahin bataya." In her cross examination by defence counsel, **she admitted her date of birth mentioned in her Aadhar card as 15.10.1996 EX.PW8/DX1 and further that her date in the Aadhar card is correct and not in the school record and her father had not committed any wrong act with her and her father has been falsely implicated in this case."**

8. The prosecution proved its case by producing PW-8 i.e., the prosecutrix, PW-15 i.e., the mother of the prosecutrix as also PW-4 i.e., Dr. Purnima. The Trial Court perused the DNA Reports as also the date of birth records of the prosecutrix and came to the conclusion that at the time of incident either by the school records or on the basis of the Aadhar Card, the prosecutrix would be a minor. The findings of the Trial Court are set out below:

"7. As far as the date of birth of the victim Is concerned, PW-1 the witness from first attended school of the victim has proved on record that admission form of the victim when she was admitted in the school in first class duly supported by her MCD birth certificate Ex.PW1/B. It came in the cross examination of this witness that the original was duly verified by the Principal of the school at the time of admission. The victim was admitted in class-1 on 06.08.2007 on the basis of this birth certificate issued by competent authority. There is no reason to doubt the genuineness of these document as well as date of birth of the victim



recorded in these documents. Though PW-8 the victim herself admitted her Aadhar card Ex.PW8/DX1 wherein her date of birth is mentioned as 15.10.1996 but the same cannot be relied upon as Aadhar card is not a valid document to determine the age of a person under J.J. Act, 2000. The law recognizes the date birth mentioned in the first attended school and in the absence thereof the date of birth mentioned in MCD record and in the absence thereof the ossification test. Once the date of birth record mentioned in the first attended school is available, there is no reason to go into date of birth mentioned in the Aadhar card. Otherwise also, PW-8 stated in her cross examination that her Aadhar card was got prepared by her mother when her father accused was in jail. This document was prepared during the trial of this case and the reason to mention wrong date of the birth in the Aadhar card prepared in the trial is obvious. The victim admittedly did not fully support the prosecution in her examination in chief and same was for the obvious pressure from the family. The prosecution in facts has duly proved that victim was born on 15.10.1999 and was minor at the time of this FIR. Even if it is presumed only for the sake of arguments that victim was born on 15.10.1996, even then on the date of this FIR i.e. 22.02.2014, she was minor. Further, she was three months pregnant as on 22.02.2014 it means that she was raped three months before i.e. some time in November, 2013 and was minor even from the date of birth alleged by the accused i.e. 15.10.1996.

8. Coming to the main incident, the victim initially



named her friend.

Honey Singh as culprit but later on in the written complaint as well as in supplementary statement u/s 164 Cr.P.C. named her father accused as the person who raped her. Though it is correct that in the court she did not name her father in her examination in chief but in the cross examination of Ld. APP, she admitted certain facts which are sufficient to prove that it was the accused who raped her. In her post lunch cross examination by Ld. APP on 16.04.2015 on page-2 it is stated that "Meine judge sahab ko apne 03.03.2014 ke bayan mein bataya tha ki mere papa daaru pikar aaye aur unhone bola ki agar mein kisi ko bataugi to tum logo ko kharcha nahi milega. aur ghar se bhi nikaal diye jayego aur iske baad papa ne mere saath sharirik sambadh banaye the aur aisa papa ne mere saath teen baar kiya. Ye kehna sahi h ki meine judge sahab ke samne 03.03.2014 ko apne bayan mein yeh bi bataya tha ki kuch din pehle (on 26.02.2014) meine aapke samne joothi gawahi di thi kyunki mein dari hui thi, lekin ab hame hamari daadi ghar se bahar nikaal rahi thi isliye mujhe sach bolna pada."

She further stated that

"Jis makan mein hum rehte hai wo meri daadi ke naam hai. Meri mother kuch kaam nahi karti. Mujhse chote 5 bhai behen hai. Mein ek export factory mein kaam karti hu. Meri badi behen bhi export factory mein kaam karti hai. Mere papa foreign tourists ko Delhi mein ghumane ka kaam karte the aur unki kaafi achi aamdani hoti thi. Ye kehna thik hai ki unke jail jaane ke baad se ghar ka gujara meri badi behen aur meri salary se hi chalta hai. Ye kehna thik hai ki mein apne papa ko jail se riha karana chahti hu kyunki ghar ka gujara bahut muskil se chalta hai. Ye kehna thik hai ki aaj court mein mere saath meri Daadi aayi hui hai."



9. This cross examination by Ld. APP clearly shows that victim was sexually assaulted by her father and because of family pressure, more specifically from the grand mother i.e. mother of the accused, the victim did not completely name her father as the person who committed rape upon her. The fact that her father raped and made her pregnant was corroborated by the FSL result Ex.PW14/G and Ex.PW14/H. **As per the DNA profile generated from the source of the exhibits, the DNA profile of the accused matched with the DNA profile with the fetus of victim. It did not match with DNA profile of Honey Singh and same clearly shows that accused fathered the aborted child of the victim.** I do not find any force in the contention of Ld. Amicus that there was delay in sending the samples or that same were tampered. As per record proved, the exhibits of the victim were seized on 23.02.2014 and sent to FSL on 25.02.2014 through PW-9, the exhibits of Honey Singh were seized on 01.03.2014 and were sent to FSL on 03.03.2014 through PW-5 and that of accused were seized on 16.04.2014 when he was arrested and sent to FSL on 17.04.2014 through PW-7. Samples were sent to FSL as early as possible and in case of accused, the very next day of the seizure. There is no delay in sending the samples to FSL as argued for the accused and further there is nothing on record to show that the seals of the exhibits were tampered. The prosecution has proved that samples were duly seized and sealed and sent to FSL as early as possible without any tampering. There is no reason to doubt the DNA report where DNA profile of accused matched with that of fetus. Prosecution has in fact duly proved that victim, a minor was raped and made pregnant by her father accused and as such accused is convicted for offence punishable u/s 6 of the POCSO Act read with 5(n) and (l) of POCSO Act. Since accused has been convicted under POCSO Act, no separate conviction is recorded for the offence of rape punishable under IPC.”



9. The submission of Mr. Ahluwalia, Id. Counsel for the Appellant is that in the present case, the FSL report being there, the Appellant is only praying for some leniency as he has four other daughters and one son, all of whom are very young and unmarried. Id. Counsel for the Appellant submits that the Appellant himself is 61 years of age and his wife is also specially abled.

10. On the other hand, Mr. Bahri, Id. APP submits that this is a case where no leniency deserves to be shown as the present case is not one of sexual assault but of repeated sexual assaults coupled with threats, pressure, coercion and duress. Id. APP submits that the prosecutrix has undergone enormous mental pain and agony and the Appellant, who is the father, is expected to take care of her daughter. Accordingly, the Appellant having committed the crime, no leniency ought to be shown.

11. The Court has heard Mr. Ahluwalia, Id. Counsel appearing for the Appellant through legal aid and Mr. Bahri, Id. APP.

12. The testimony of the prosecutrix is completely clear and there is no doubt in respect of her testimony. Secondly, the testimony of the PW-4, Dr. Purnima *i.e.*, Doctor at Lok Nayak Hospital also shows that initially, the prosecutrix only complained of pain in the abdomen, however, upon being examined, the victim had enormous pain and post-partum stress as well. PW-4 in her statement also states that the prosecutrix had initially not given the history of sexual assault by her father. The relevant portion of the said statement reads as under:-

“On 19.02.2014, I was posted at Lok Nayak Hospital as above. On that day, patient i.e. victim A d/o Mohd. Zamil, age 13 years, female, was brought to the Gyne Casualty Department of the hospital by one Ct. Ajay and



mother of the patient for medical examination. Initially the patient and her mother did not give any other history or complaint except that of pain in abdomen. After the pregnancy of the patient was revealed during routine tests conducted in the hospital, then the patient and her mother gave history of sexual contact with a friend of the patient whose name was not revealed.

The patient was examined by me and Dr. Usha Manaktala (unit head), vide MLC Ex.PW-4/A which is in my handwriting and bears my signatures at point "A". On 22.02.2014 itself the patient and her mother gave consent for termination of the pregnancy of the patient. Accordingly, endorsement regarding the same was made on the MLC at point "X" and the police was also informed. When the police officials came at about 3:00 PM, the patient was having uterine contractions and pain in abdomen and was not fit for statement. The endorsement in this regard was given at point encircled "Y" by Dr. Jenny, who was SR Gyne (Casualty) on duty at that time. I can identify handwriting and signatures of Dr. Jenny as I have seen her writing and signing during the course of my official duties.

The police officials again came to the hospital to record the statement of patient - victim on 23.02.2014. I examined the patient and found that patient was not fit for statement as she was having pain in abdomen and post partum stress. I gave my endorsement in this regard at point encircled "Z" on MLC and appended my signatures at point "A-1" thereupon.

Court Ques. : Are you aware when the police recorded statement of the patient / victim ?

Ans. No, since the statement of the patient / victim was not recorded in my presence by the police. The police, however, did not approach me after 23.02.2014 to find out about the fitness of the patient to give statement.

Court Ques.: If the patient had been unfit for statement after 23.02.2014, would the endorsement regarding it have been made on the MLC Ex.PW-4/A itself ?



Ans. It is correct.

XXXXXX By Sh. Praveen Tyagi, proxy counsel for Ms. Urmila Yadav, LAC for accused.

It is correct that the patient / victim and her mother never gave history of sexual assault on the victim by her father.”

13. The pregnancy was thereafter terminated with the consent of both the prosecutrix and her mother.

14. The Trial Court in the impugned judgment has also placed reliance upon the FSL Report. The said report concludes that the DNA of the foetus matched with the Appellant and not with the other suspect whose name was initially given by the prosecutrix. The FSL Report which is on record and exhibited as Ex. PW - 14/G dated 29th September, 2014 gives the following conclusion:

“The DNA profile (STR analysis) performed in the source of exhibits '2' (i.e sample blood gauze of accused Jamil@Baigen received in FSL vide FSL 2014/DNA-2775) '3' (i.e blood on gauze of suspect Yogender@Honey Singh received in FSL vide FSL 2014/DNA- 1550) '5'(i.e foetus received in FSL vide FSL 2014/DNA-1408) are sufficient to conclude that the DNA profile from the source of exhibit '2' (i.e sample blood gauze of accused Jamil@Baigen received in FSL, vide. FSL. 2014/DNA-2775) is matching with DNA profile generated from the source of exhibit '5' (i.e. foetus '3' (i.e.e blood on gauze of suspect Yogender@Honey Singh received in FSL Vide FSL 2014/DNA- 1550) is not matching the DNA profile generated from the source of exhibit '5'(i.e foetus received in FSL vide FSL 2014/DNA-1408).”

15. The school record of the prosecutrix has also been exhibited and therein, the date of birth of the prosecutrix is recorded as 15th October, 1999.



On the overall conspectus of the facts, it is clear that the prosecutrix was subjected to sexual assault by her own father, from whom she had also become pregnant.

16. The present case is fully covered by the decision of this Court in ***DRY v. State NCT of Delhi, 2026: DHC:448-DB*** where under similar circumstances, the Court had observed that no leniency ought to be shown in such cases. The relevant portion of the said decision reads as under:

“29. Thus, there can be no doubt, whatsoever on the basis of the scientific evidence, that the father i.e., the Appellant had established the physical relationship with his own daughter, who was a minor.

*30. The Supreme Court in the decision in ***Bhanei Prasad alias Raju v. State of Himachal Pradesh, 2025 SCC OnLine SC 1636*** while dealing with a case on similar facts where a father repeatedly committed aggravated penetrative sexual assault upon his own minor daughter, held as under:*

“5. The jurisprudence under the POCSO Act has evolved as a bulwark against the predatory crimes targeting the innocence of childhood. Section 29 of the POCSO Act creates a statutory presumption of guilt, once foundational facts are established. In the present case, this presumption stood un rebutted. The victim's testimony was unwavering, medically corroborated, and free from embellishment. Her disclosure, though delayed, was truthful and borne out of perennial trauma and threats she has undergone.

6. It is now well settled that the testimony



of a child victim, if found credible and trustworthy, requires no corroboration. The Courts below have not merely accepted the victim's account, they have validated it through unimpeachable scientific evidence. The DNA report sealed the evidentiary chain and has dispelled all doubts in the prosecution case which is sought to be assailed by the petitioner.

7. The argument raised before us is that the petitioner was falsely implicated due to strained domestic relationships and disapproval of romantic alliances of his daughters is completely hollow. No daughter, however aggrieved, would fabricate charges of this magnitude against her own father merely to escape household discipline.

8. This Court has repeatedly underscored that in offences involving sexual abuse, especially against children, the trauma suffered by the victim is lifelong. The scars are not merely physical but psychological, cutting across every fibre of trust, safety, and dignity. When the perpetrator is none other than the father, the natural guardian, the crime assumes a demonic character.

9. Such offences deserve nothing but the severest condemnation and deterrent punishment. To pardon such depravity under any guise would be a travesty of justice and a betrayal of the child protection mandate embedded in our constitutional and statutory framework.

10. As per ancient scriptures:

“Yatra nāryastu pūjyante ramante tatra



devatāḥ, yatraitaastu na pūjyante sarvāstatra aphaalāḥ kriyāḥ.”

“Where women are honoured, divinity flourishes; and where they are dishonoured, all acts become fruitless.”

This verse reflects not merely a cultural principle but a constitutional vision. The dignity of women is non-negotiable, and our legal system must not permit repeated intrusion into that dignity under the guise of misplaced sympathy or alleged procedural fairness.

*11. A prayer for interim relief of bail is also sought in the petition and our judicial conscience does not permit casual indulgence in a prayer for interim relief of bail where the conviction has been rendered after full-fledged trial, affirmed in appeal, and the testimony of the victim is clear, cogent, and duly corroborated. **This Court has repeatedly held that in serious offences under the POCSO Act, particularly those involving familial betrayal of trust, relief cannot be granted as a matter of routine.** Where two courts have concurrently found guilt and the findings are not shown to be perverse, interference under Article 136 is neither warranted nor justified in the present case.*

12. Let it be stated unambiguously that entertaining of the present petition or remotely considering the grant of bail in a case of this nature, after the guilt has been proved and affirmed, would not merely undermine the majesty of the law, it would amount to a betrayal of the



constitutional promise made to every child of this country. It would be, in the considered view of this Court, a judicial insult to the sanctity of womanhood and a blow to every mother who teaches her child to believe in justice.

13. When a father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most severe violation of a child's bodily integrity and dignity, the betrayal is not only personal but institutional. The law does not, and cannot, condone such acts under the guise of rehabilitation or reform. Incestuous sexual violence committed by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence. The home, which should be a sanctuary, cannot be permitted to become a site of unspeakable trauma, and the courts must send a clear signal that such offences will be met with an equally unsparing judicial response. To entertain a plea for leniency in a case of this nature would not merely be misplaced, it would constitute a betrayal of the Court's own constitutional duty to protect the vulnerable. When a child is forced to suffer at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. There can be no mitigation in sentencing for crimes that subvert the very notion of family as a space of security.



31. A *Id.* Single Judge of this Court, in the decision in ***BS v. State (NCT of Delhi), 2025: DHC:8647*** while upholding a conviction under similar circumstances observed as under:

“51. The sentence of twenty years’ rigorous imprisonment thus cannot be said to be either illegal or excessive. On the contrary, it is a proportionate response to the gravity of the crime, firmly anchored in the statutory scheme and consistent with established legal principles. Sentencing is not an arithmetical exercise but a solemn judicial function requiring a balance between individual circumstances and society’s call for justice. Where the victim is a minor daughter and the offender her own father, the breach is doubly grave, inflicting deep physical and psychological trauma and shattering her sense of security within the home. In this context, the punishment imposed affirms the dignity of the survivor, reflects society’s abhorrence of such crimes, and upholds the protective mandate of POCSO.

CONCLUSION

52. The testimony of the Prosecutrix, though not flawless, is credible on the core allegation and stands corroborated by the DNA report. No motive for false implication has been demonstrated, and the presence of the appellant’s semen in her genital samples is incontrovertible scientific proof of assault. In these circumstances, the conviction is unassailable. The punishment imposed



twenty years' rigorous imprisonment is a just and proportionate response, reflecting both the gravity of the crime and the statutory mandate of POCSO."

32. *The social circumstances and the economic status of the family may have compelled the Prosecutrix and her mother to give contradictory statements or to turn hostile. However, in such cases the Court cannot completely ignore the scientific evidence which has come on record. In the present case, the DNA testing, being conclusive and unimpeachable evidence establishing the factum of physical relationship of the Appellant with the minor daughter, leaves no scope for doubt, and accordingly, the conviction of the Appellant cannot be faulted.*

33. *The provisions of the POCSO Act clearly lead to a deeming conclusion that the Appellant is guilty of the offences charged, and in fact, the same constitutes a gruesome offence, considering the relationship between the victim and the Appellant being that of father and daughter.*

34. *A father who is supposed to safeguard the safety and security of his own daughter cannot be shown any relaxation in such cases. The presumption under Section 29 of the POCSO Act applies wholly in the present case.*

35. *In the opinion of this Court, the application seeking suspension of the sentence is completely meritless. In fact, the appeal itself is meritless.*

36. *The impugned judgement deserves to be confirmed. Ordered accordingly."*

17. The conviction of the Appellant is fully tenable and does not warrant any interference. Appellant is also present in the Court. Coming to the aspect of sentence, Id. Counsel for the Appellant has given various mitigating



circumstances including his age, five more children, whom he has to take care of, the fact that his only income is from being a rickshaw puller and that his wife is also specially abled.

18. In the present case, the sentence that has been awarded to the Appellant is life imprisonment. Considering the nature of the offence, the Court is not inclined to reduce the sentence. However, the mitigating circumstances can be relied upon by the Appellant at the time of seeking commutation of sentence under Section 55 of the IPC read with Section 433 Cr.P.C.

19. Accordingly, the conviction and the sentence awarded *vide* impugned judgment dated 7th August, 2018 and order on sentence dated 10th August, 2018 respectively are confirmed.

20. The name of the Appellant, the prosecutrix as also her mother shall also be redacted from all the uploaded orders and the documents.

21. The appeal is disposed of in the above terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**MADHU JAIN
JUDGE**

APRIL 9, 2026/ys/ck