



HIGH COURT OF TRIPURA
AGARTALA

CRL A (I) 20 OF 2025

Sri Amar Noatia,
S/o Padma Hari Noatia,
Resident of village-Nidaya,
P.S. Jatanpur, District-Gomati Tripura.

....Convict-Appellant.

Versus

The State of Tripura

....Respondent.

Present:

For the Appellant : Mr. Ratan Datta, Advocate.
Mr. A.Baidya, Advocate.
Ms. D. Debroy, Advocate.
Mr. A. Dey, Advocate.

For the Respondent : Mr. Raju Datta, P.P.

Date of hearing : 07.07.2026

Date of delivery of
judgment & Order : 14.07.2026

Whether fit for reporting :

Yes	No
✓	

HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR.JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

[Dr. T.Amarnath Goud, j]

This criminal appeal under Section 374 of CrPC is directed against the judgment and order of conviction and sentence dated 06.02.2025, passed by learned Special Judge (POCSO), Gomati District, Udaipur, in Special (POCSO) 04 of 2022, where-under learned Special Judge found the accused-appellant guilty of committing offences under Sections 363/376AB of IPC and under Section 6 of the POCSO Act and sentenced him in the following manner:

(i) Rigorous Imprisonment for 03 years and to pay a fine of Rs.1,000/- (rupees one thousand) for commission of offence punishable under Section 363 of IPC and in default of payment of fine, he shall suffer further Rigorous Imprisonment for six months.

(ii) Rigorous Imprisonment for 20 years and to pay a fine of Rs.5,000/- (rupees five thousand) for commission of offence punishable under Section 376AB of IPC and in default of payment of fine, he shall suffer further Rigorous Imprisonment for one year.

(iii) Rigorous Imprisonment for 20 years and to pay a fine of Rs.5,000/- (rupees five thousand) for commission of offence punishable under Section 6 of the POCSO Act and in default of payment of fine, he shall suffer further Rigorous imprisonment for one year.

All the sentences imposed upon the convict shall run concurrently.

2. The facts of the case as emanated from the record may be summarized thus:

On 02.01.2022, one Chaitra Kumar Debbarma lodged a written complaint with the O.C., Kakraban Police Station alleging that on 21.12.2021 his minor daughter went to her maternal uncle's house of the same locality and at around 10 pm at night accused Amar Noatia deceitfully took his minor daughter, the victim herein, to his house. On the following day, when the wife of the informant searched for the victim, he came to know that the said accused had taken her away forcefully after calling her and accordingly, the said informant was registered as Kakraban P.S. Case No.2022/KKB/01. Subsequently, the police recovered the victim along with the accused-appellant and handed over the victim to the informant.

3. Based on the said FIR, police investigated the case and submitted the charge sheet against the accused-appellant under Sections 363/376AB of IPC and Section 6 of the POCSO Act. Charges were also framed under the aforesaid Sections to which he pleaded not guilty and claimed to be tried. Charges as framed by the learned trial Court is reproduced here-in-below for convenience:

“CHARGE

I, Sri A. Paul, Special Judge, Gomati Tripura, Udaipur, do hereby charge you:-

Sri Amar Noatia

As follows:-

Firstly: That, you on 21.12.2021 at about 10 P/M to 11 P.M. at Jagatrampur sadhu para, under P.S. Jatrapur, Dist- Sepahijala kidnapped the victim girl a minor age of 11 years from the lawful guardianship of her parents and you thereby committed an offence punishable Under Section 363 of I.P.C. and within cognizance of this court.

Secondly: That you in between 21.12.2021 to 03.01.2022 at Samukchara under P.S. Kakraban and subsequently on different places in Tripura committed rape upon the victim girl (Age about-11 years) and you thereby committed an offence punishable Under Section-376(AB) of I.P.C. and within my cognizane.

*Thirdly: That on the same date, time and place you committed aggravated penetrative sexual assault upon the victim girl (Ages about 11 years) and you thereby committed an offence punishable Under Section **6 of the protection of children from sexual offence Act,2012** and within my cognizance.*

And, I hereby direct that you be tried on the said charges by this court.”

4. In course of trial, the prosecution examined total 21 nos. of witnesses and after closure of prosecution evidence the accused-appellant was examined under Section 313 CrpC to which he denied the allegations brought against him by all the witnesses, and also declined to adduce any defence witness.

5. Learned trial Court after considering the materials as placed in the evidence held him guilty and finally convicted and sentenced him in the terms as stated here-in-above.

6. Having felt aggrieved and dissatisfied with the impugned judgment and order of conviction and sentence, the accused has preferred this appeal.

7. Learned counsel, Mr. Ratan Datta for the appellant firstly raises the issue that there was 13 days delay in lodging the FIR. He submits that the incident occurred on 21.12.2021 but the FIR was lodged on 02.01.2022.

According to Mr. Datta, learned counsel, there is serious contradiction in between the FIR, 164 statements and the depositions of the prosecution witnesses. He draws attention of the Court to the FIR that there is nowhere a single whisper of rape, sexual assault or any physical relationship between the alleged victim and the convict-appellant. The story of rape has been subsequently developed by the alleged victim as tutored by the investigating agency. In respect of medical examination of the victim, learned counsel submits that there is material inconsistency in the report that she was never subjected to question as time and place of rape, etc. though there was no allegation of rape in the FIR. He emphasized his submission on the seizure list dated 02.01.2022 stating that blood and swab sample of the victim was collected at 21:00 hours i.e. 9:00 pm but the same were sent for forensic examination on 17.01.2022 which is according to him a serious infirmity because the possibility of tampering cannot be ruled out and thus missing link also weakens the prosecution case. His plea is that how that sample has been kept and where that has been preserved, no explanation is there.

8. Learned counsel, Mr. Datta strongly argues that the age of the victim has not been proved in this case. There is no birth certificate or other age proof or even, no ossification test has also been conducted. The alleged school certificate of the victim [Exhibit-7] was issued on 21.02.2022 but the same was seized on 18.01.2022 i.e. prior to the issuance of the said school certificate. According to him, the very existence of the school certificate is doubtful. Learned counsel further re-iterated that PW 7 and PW 18 are the issuing authority and seizure witness respectively who categorically stated that they cannot say the basis for recording the date of birth of the victim in the said certificate.

9. Mr. Datta, learned counsel further submits that there is nothing incriminating materials comes out from the DNA test report and accordingly, the said DNA test report did not support the prosecution case. He unequivocally argues that as per the medical examination report of the victim in column no.16 regarding past history with regard to sexual experience, vaginal discharge, venereal diseases, pregnancies & pelvic operations etc., it gives a significant history from the victim and the entry was made 'multiple times' in that column.

10. It is also submitted by learned counsel that the convict appellant is a relative of the alleged victim and he is now peacefully residing with his wife and two sons respectively. On the other hand, the victim is also married and at present she is leading her life peacefully with her husband and one child. He, therefore, prays for setting aside the impugned judgment and order of the learned trial Court in view of the inconsistencies and defect in the prosecution case.

11. In support of his submission, learned counsel, Mr. Datta relies on the following decisions:

- i. **2026 SCC OnLine SC 664, Debraj Dutta vs. State of West Bengal & Anr.;**
- ii. **AIR 1995 SC 2169, Shyam and Anr. vs. State of Maharashtra;**
- iii. **Criminal Appeal (J) 29 of 2024, Babul Das vs. State of Tripura;**
- iv. **(1996) 11 SCC 685, Sahib Singh vs. State of Punjab;**
- v. **2025 SCC OnLine SC 78, State (GNCT of Delhi) vs. Vipin alias Lalla;**
- vi. **2023 LiveLaw (SC) 538, P. Yvaprakash vs. State, Rep. by Inspector of Police;**
- vii. **2023 INSC 959, Manak Chand @ Mani vs. The State of Haryana;**
- viii. **Criminal Appeal (J) 56 of 2024, Sri Rajib Karmakar vs. the State of Tripura;**
- ix. **[2023] 14 S.C.R.959, Indrakunwar vs. the State of Chhattisgarh;**
- x. **(2014) 5 SCC 509, Dharam Deo Yadav vs. State of Uttar Pradesh;**
- xi. **AIR 2013 SC 3150, Raj Kumar Singh alias Raju alias Batya vs. State of Rajasthan;**

12. Learned P.P., Mr. Raju Datta on the other hand at the very outset vehemently contends that the victim was 11 years of old at the time of her abduction by the accused and thereafter the accused-appellant committed rape upon her several times on several places. Learned P.P. further contends that though at the first instance in the FIR the informant did

not allege about rape but the victim stated about the lascivious behaviour of the accused in her subsequent statement recorded by the Magistrate and in her deposition as well that the accused-appellant committed rape on her several times. Therefore, according to learned P.P. there is no contradiction in the statement of the victim in respect of rape by the accused-appellant upon her. He argues that the victim clearly stated in her deposition that the accused had committed sexual intercourse with her for eleven times without her consent and the accused-appellant gagged her mouth with a gamcha so that she could not raise any alarm. There was nothing incriminating materials in the cross-examination dealt with by the defence.

13. Regarding the minor age of the victim, learned P.P. relies on the sole testimony of the parents of the victim i.e. PWs 2 and 3 who categorically stated about the minor age of the victim at the relevant date and time of the occurrence. He pointed out that there is even no suggestion in the cross-examination of PW-7, the Headmaster concerned that at the time of incident her age was not 11 or 12 years or she is more than 18 years old.

14. Learned P.P. regarding the medical evidence argues that PW-13, the medical officer clearly in her final report opined that her hymen was ruptured and the swab analysis report was positive for spermatozoa which suggest that there was sexual intercourse. He strongly submits that in the cross-examination of the medical witness, the defence could not make out any substantive piece of evidence in their favour but completely declined the cross-examination. His contention is that it is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and such injuries on the private parts of the victim are not always fatal to the case of the prosecution. According to him, in such cases solitary testimony of the prosecutrix would be sufficient to base the conviction and no such corroboration is required unless there are compelling reasons which necessitate the Court to insist for corroboration of the statement of the victim.

15. Learned P.P. also argues that the victim was under the age of 12 years and certainly the charge as framed under POCSO Act, has been well proved against him as the said Act does not permit him to commit any sexual offence upon a minor girl.

16. Further, learned P.P. argues that learned trial Judge placed implicit reliance on the statement of the victim as well as her parents and arrived at a conclusion of guilt of the accused and since there is evidence on record in support of coming to the conclusion of guilt, such finding of the trial Court may not be disturbed in appeal. Accordingly, he prays for upholding the judgment and order of conviction and sentence passed by the learned trial Court.

17. In support of his submissions, learned P.P. placed reliance upon the following judgments:

- i. 2025 SCC OnLine SC 1610, Deepak Kumar Sahu vs. State of Chattisgarh;*
- ii. 2023 SCC OnLine Sc 1396, Birbal Nath vs. State of Rajasthan & Ors.;*
- iii. (2021) 3 SCC 12, Anversinh alias Kiransinh Fatesinh Zala vs. State of Gujarat;*
- iv. (1981) 1 SCC 560, Harpal Singh & Anr. vs. State of Himachal Pradesh;*
- v. (2018) 17 SCC 658, State of Madhya Pradesh vs. Preetam;*

18. To assess the contentions of the parties, let us go through the evidence of the vital witnesses first.

19. PW-1, victim of the case deposed that at about 8 months back from the date of her deposition, one day she went to her maternal uncle's place/house along with her elder brother. She had a dinner on that night and after dinner when she went on nature's call, accused Amar Noatia suddenly gagged her mouth with a gamcha and took her to the nearby Monai Pathar school boarding on a bike and thereafter he forcibly removed all her clothes and committed sexual intercourse. She again stated that the accused committed repeated sexual intercourse in different places on different times without her consent. Thereafter she was rescued by police from the clutches of the accused and handed over her to her parents.

In cross-examination, the defence took no incriminating materials except some denial.

20. PW-2, the father, i.e. the informant stated that on 21.12.2021 his daughter, i.e. the victim herein went to his father-in-law's house along with her brother Ranabir Debbarma and the son of the accused. But, on the next day his daughter went missing. He also heard that accused Amar Noatia was also missing. He went to the house of Amar Noatia and could gather information from his parents that Amar came there with a girl. But he could not contact with them and subsequently he lodged a missing diary at Jatrapur P.S. The informant further stated that after about 12 days, i.e. on 02.01.2022 police recovered his daughter and when she was asked as to what happened with her, she told them that when she went on nature's call in the house of her maternal grandfather said Amar Noatia suddenly gagged her mouth with a gamcha and took her to the nearby Monai Pathar School and there he forcibly raped her. PW-2 further stated that the victim told him that the accused committed rape at various places in different times without her consent. PW-2 also stated that he signed in the consent form bearing medical examination of his daughter and he identified his signature in the consent form which was marked as Exbt.P5.

In cross-examination, defence took an admission that PW-2 did not state to police that Amar Noatia was also missing, the parents of Amar also admitted that he came there with a girl, he could not contact with Amar on 24.12.2021 and accordingly he lodged the missing diary at Jatrapur P.S. Nothing more could be elicited from the cross-examination by the defence.

21. PW-3, the mother of the victim deposed in the same tune of PW-2 and in cross-examination, defence only put some suggestions.

22. PW-4, being the grandfather deposed that the victim came to their house about nine months back from the date of his deposition and she went missing on the next morning and subsequently he learnt that she was kidnapped by Amar Noatia. PW-5 being an uncle of the victim also stated likewise PW-4 that the victim was missing from the house of her grandfather and later he learnt that she was kidnapped by Amar Noatia and took her at many places. She was recovered after 12 days by the police.

23. PW-6, an aunt of the victim also stated in the same tune of PWs-4 and 5.

24. PW 7, the Headmaster of the school of the victim in his deposition stated that on requisition of police he issued the school certificate in the name of the victim where the date of birth was given as 26.02.2010 basing on the school admission register.

In cross-examination, PW 7 stated that there is no mention in the admission register on the basis of which document the date of birth was recorded.

25. PW-8, a neighbour of the grandfather of the victim stated that the victim was missing about nine months back from the date of his deposition and subsequently she was recovered by the police after 12 days of the incident and on being asked by him, the victim told him that she was taken to various places by Amar where she was raped.

26. PW-9 also stated similar statement made by PW-8.

27. PW-12 is the seizure witness and he stated that he signed on a seizure list of the bike of Amar Noatia by which he kidnapped the victim.

28. PW-13, the medical officer, deposed that the victim was 11 years old at the time of examination. There was history of multiple times of sexual experience and on prevaginal examination, the hymen was found old torn. She was of the opinion that her hymen was ruptured and no visible sign of injury was found in her body and private part. After receiving the SFSL report, she gave final opinion that swab analysis report was positive for spermatozoa suggestive of sexual intercourse.

The cross-examination of said medical witness was declined by the defence.

29. PWs 14 & 17 are the seizure witnesses of the blood sample and vaginal swab of the victim. PW-16 is the seizure witness of the blood sample of the accused Amar Noatia. All the witnesses have proved their signatures during their depositions.

30. PW 18 is the seizure witness of the school certificate of the victim and he proved his signature in the seizure list as Exbt.P-6/1/PW18.

31. PW 19 is the Scientific Officer-cum-Asst. Chemical Examiner in the SFSL. She deposed that some exhibits were endorsed to her for investigation in connection with this case and after examination she submitted report. She identified the report and her signature on it was marked Exbt.P-11/PW19.

32. PW 21, Inspector Sukanta Tripura is the first investigating officer of this case. On being endorsed, he took up the investigation, examined and recorded statement of the available witnesses, visited the place of occurrence, seized the wearing apparels of the victim, arranged for medical examination of the victim, seized blood sample and vaginal swab of the victim, also seized blood sample of the accused, arranged for recording statement of the victim under Section 164 of Cr.P.C. and also arrested the accused. Subsequently, he handed over the case docket to W/I Madhabi Debbarma, as per instruction of the higher authority.

33. PW 20, WSI Madhabi Debbama, being the second I.O. of the case, took up rest part of the investigation, arranged for sending the blood samples of the victim as well as the accused to be examined by the forensic department. PW 20 also examined available witnesses and recorded their statement, seized one motor bike along with its papers, collected SFSL reports. After completion of investigation, she submitted charge-sheet against the accused Amar Noatia for commission of offence punishable under Sections 363/366/376AB of IPC and Section 6 of the POCSO Act.

34. These are the core evidences of the prosecution witnesses. Now, here in the present case, the first and foremost submission of learned counsel for the appellant is that there is no whisper in the FIR about the commission of any rape upon the victim by the accused person. We find in the evidence of the victim as well as from the evidence of the parents that the victim was abducted by the accused after being gagged her mouth with a gamcha from her grandfather's house and he committed rape upon her several times against her will. She vividly described that the accused took her to different places to fulfil his sexual desire and ultimately she was forcefully raped by him. The victim made a clear statement that she was raped by the accused and in her statement recorded under Section 164 of CrPC also, which is marked as Exbt.P1, the victim categorically stated that the accused committed rape upon her. She being a girl of aged about 11

years may be of short of average intelligence, but so far her statement is concerned, she was matured to understand the meaning of 'rape'. The fact of the incident is also corroborated by the parents of the victim. From the evidence of PW 8 and PW 9, the neighbours of her maternal grandfather, it also revealed that the victim told them that she was taken to various places and several times the accused committed rape upon her without her consent. Therefore, there is ample corroboration that she was being raped by the accused.

35. It is the contention of the learned counsel for the appellant that there was no injury found in the private parts of the victim and the report speaks about the sexual experience of the victim as 'multiple times'. Further, he pointed out that though the semen/spermatozoa found in her inner, outer vaginal swab of the victim as well as in her dried blood sample collected during investigation, but that was not well convincing as it comes to light from the deposition of the forensic expert because the spermatozoa/semen etc. as detected by the forensic expert in the body of the victim girl are contrary to the medical jurisprudence where the doctors opinion cannot be accepted as there was no occurrence of commission of rape, they only said that intercourse has been taken place. He further pointed out that so far the spermatozoa is concerned, the span of life of spermatozoa is 6 to 12 hours for analysis and the test conducted after so many days which bears no reasonable explanation.

36. From the medical evidence it has come to light that though the hymen of the victim was torn and old, but swab analysis report was positive as spermatozoa was detected. From the statement of the victim recorded under Section 164, CrPC and the deposition of the victim it is clearly and convincingly evident that accused forcefully took her to different places and raped upon her several times. Therefore, it cannot be ruled out that there was no recent sexual intercourse.

37. In this aspect, we may gainfully refer here the decision of **Deepak Kumar Sahu vs. State of Chattisgarh, 2025 SCC OnLine SC 1610** as relied upon by learned P.P., wherein, the Apex Court at paragraph no.5.5.4 held thus-

"5.5.4. It may be true that in the present case the evidence of the medical officer (PW-17) spoke about absence of external injury marks on

*the genitals of the victim. However, the proposition that the corroboration from the medical evidence is not sine qua non when the cogent evidence of the victim is available, was reiterated in a recent judgement of this Court in **Lok Mal alias Loku vs. State of Uttar Pradesh, [(2025) 4 SCC 470]**, observed:*

“Merely because in the medical evidence, there are no major injury marks, this merely cannot be a reason to discard the otherwise reliable evidence of the prosecutrix. It is not necessary that in each and every case where rape is alleged there has to be an injury to the private parts of the victim and it depends on the facts and circumstances of a particular case. We reiterate that absence of injuries on the private parts of the victim is not always fatal to the case of the prosecution.”

38. Learned counsel for the appellant put a question before this Court that in the case of rape conviction cannot be made on the sole testimony of the victim unless the testimony of the victim inspire confidence of the court. In that regard, learned counsel has relied upon a decision of the Hon'ble Supreme Court in the case of State **(GNCT of Delhi) vs. Vipin alias Lalla, 2025 SCC OnLine SC 78** wherein, the apex Court at Paragraph No.10 observed thus:

“10. Although it is absolutely true that in the case of rape, conviction can be made on the sole testimony of the prosecutrix as her evidence is in the nature of an injured witness which is given a very high value by the Courts. But nevertheless when a person can be convicted on the testimony of a single witness the Courts are bound to be very careful in examining such a witness and thus the testimony of such a witness must inspire confidence of the Court.....”

39. Here, in the present case, there is substantive oral evidence given by the victim that the accused-appellant Amar Noatia inserted his male organ into her urethra and also had sex with her several times. Her such evidence was substantially corroborated by the medical officer and forensic experts i.e. PW 13 and PW 19.

40. In **Deepak Kumar Basu** (supra), Hon'ble Supreme Court at paragraph nos. 5.5.6 and 5.5.7 observed thus:

“5.5.6 The credible and reliable evidence of prosecutrix could not be jettisoned for want of corroboration including the corroboration by medical report or evidence. The Court observed in Manga Singh (supra) that “in absence of injury on the private part of the prosecutrix, it cannot be concluded that the incident had not taken place or the sexual intercourse was committed with the consent of the prosecutrix”. It was stated that it is well settled that in the cases of

rape it is not always necessary that external injury is to be found on the body of the victim.

5.5.7 In Wahid Khan vs. State of Madhya Pradesh, [(2010) 2 SCC 9], this Court repelled the contention of the appellant that since the hymen of the prosecutrix was found to be intact, it cannot be said that an offence of rape has been committed. The Court refused to accept such contention in light of the definition of offence of rape in Section 375 of the Indian Penal Code. It was further observed that it is the consistent view of this Court that even the slightest penetration is sufficient to make out an offence of rape."

41. Hon'ble Supreme Court further reiterated in paragraph no. 5.6.1 of that judgment that the solitary statement made by the victim would be sufficient to record a conviction. For the sake of convenience, the said observation may be reproduced here-under:

"5.6.1. It was further asserted that corroboration is not an essential requirement for conviction in the cases of rape.

It is well settled by a catena of decisions of the Supreme Court that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence. As a general rule, there is no reason to insist on corroboration except from medical evidence. However, having regard to the circumstances of the case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court."

42. Learned counsel for the appellant also pointed out that in the examination under Section 313, CrPC, the accused-appellant categorically stated that there was financial transactions between the father of the victim i.e. PW 2 and him wherein the accused had advanced Rs.20,000/- as loan to the father of the victim which he had borrowed from the Bandhan Bank and when the same amount demanded, the PW 2 filed a false case against him. In that aspect, learned counsel for the appellant could not show any substantive proof that the accused had given loan to the father of the victim.

43. Regarding the age of the victim, we find that PW 7, the Headmaster of a school of the victim categorically stated that as per admission register of the school he issued the school certificate in the name of the victim and the age of the victim was shown as 26.02.2010. The seizure of said certificate was also confirmed by PW 8. Though in his cross-examination of PW-7 he stated that he cannot tell on which basis the date of

birth on the certificate has been mentioned, but he categorically stated that as per admission register of the school the date of birth of the victim is mentioned 26.02.2010. The incident occurred on 21.12.2021, so, on the date of occurrence definitely the victim was 11 years old. There was no effort either from the prosecution or from the trial Court that the person who has admitted the victim in the school had to be examined. However, learned trial Court did not disbelieve the said school certificate and rightly come to the conclusion that the victim was aged about 11 years at the time occurrence. In our considered view, in each and every case the prosecution cannot be expected to examine the person who has admitted a student in the school. Thus, the school registers are the authentic documents being maintained in the official course. In view of the above, the school certificate as proved by PW 7, the Headmaster concerned, the age of the victim has to be determined in this case at the time of occurrence as 11 years.

44. Viewed in the above perspective, we can safely arrive at the conclusion that on the date, time and place of occurrence the accused-appellant kidnapped the minor daughter of the informant from her maternal grandfather's house after gagging her mouth with a gamcha and kept under his custody. Thereafter, he shifted her once place to another to meet his lascivious behavior with her and several times he forcibly committed rape upon her which circumstances amply inspire confidence of the Court. Thus, the learned trial Court rightly came to the findings that the accused is guilty for committing offences under Sections 363/376AB of IPC.

45. It is also proved from the circumstantial evidence and direct evidence of the PWs 1, 2 and 3 including the neighbours of the grandfather of the victim i.e. PWs 8 and 9 that the victim was under the age of 12 years and the accused committed aggravated penetrated sexual assault upon the victim as we discussed in the preceeding paragraphs, for which he is liable to be punished for commission of offence under Section 6 of the POCSO Act.

46. We may gainfully refer here the decision of a case of **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, wherein the Apex Court has observed 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.

47. In the present case, it is to be noted that the accused being an adult person is a close relative of the victim i.e. husband of her cousin sister. He took advantage of the absence of her parents, when she went to her grandfather's house on an invitation. In the night of occurrence when she came out of her nature's call, he suddenly appeared there and gagged her mouth with a gamcha and kidnapped her, took her to several places and committed rape upon her several times. The victim was aged about 11 years old at the time of occurrence. These circumstances demonstrate the mental state or mindset of the accused. As a close relative, in fact, it was the duty of the accused to protect the victim girl when alone rather than exploiting her innocence and vulnerability. He made her the victim of lust. It is a case where trust has been betrayed and social values are impaired. Therefore, the accused as such does not deserve any sympathy and/or any leniency.

48. In view of the above, we find no infirmity in the impugned judgment and order of conviction and sentence passed by learned Special Judge in Special (POCSO) case No. 04 of 2022 and we accordingly affirm the same.

Hence, the appeal being devoid of merit is thus dismissed.

49. Send back the LC records along with a copy of this judgment.

S.DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J