



लोकप्रिय गोपीनाथ बरदलै क्षेत्रीय मानसिक स्वास्थ्य संस्थान
तेजपुर: असम: पिन: 784001

LGB REGIONAL INSTITUTE OF MENTAL HEALTH
(An Autonomous body under Ministry of Health and Family Welfare, Govt. of India)
Website: www.lgbrimh.gov.in, e - Mail: mail@lgbrimh.gov.in
Post Box No. 15:: FAX No. (03712) 233623
TEZPUR:: 784001 :: ASSAM

No. LGB/Estt/1880/17/Vol-II/ 3182

Date: 18/05/2026

CIRCULAR

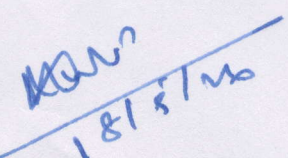
In pursuance of Ministry of Health & Family Welfare Letter No. C.18018/20/2026-H-II dated 24.04.2026 forwarding the Judgment dated 23.03.2026 passed by the Fast Track Special Court (POCSO)-02, Tis Hazari Courts, Delhi in SC No. 82/2026 (*State vs. Veer Bhan*), along with the "Guidelines and Examination Proforma for Medico-Legal Cases of Victims of Sexual Violence", the same is hereby circulated among all concerned Officials/Departments/Units of the Institute for information, strict compliance, and necessary action.

All concerned shall ensure strict adherence to the aforesaid Guidelines, including victim-sensitive handling of cases, maintenance of confidentiality and dignity of victims/survivors, compliance with the provisions of the POCSO Act, 2012 and applicable provisions of the Bharatiya Nyaya Sanhita (BNS), proper consent procedures, use of the prescribed examination proforma, proper documentation and preservation of medico-legal records, display of the Guidelines in relevant clinical areas, and sensitization of the healthcare professionals concerned.

Further, the DMS shall ensure sustained compliance with the Ministry Guidelines through periodic institutional review and reporting mechanisms.

The matter shall be treated as **MOST URGENT**.

This issues with the approval of the Competent Authority.


(Dr. H. Dutta)
OSD & Deputy Director
LGBRIMH, Tezpur

Copy to:

1. MS- for information.
2. DMS- for ensuring sustained compliance with the Ministry guidelines through periodic institutional review and reporting mechanisms.
3. AMS I & II
4. All HODs
5. All In-Charges
6. All Officers/Section Heads
7. Matron
8. PA to Director- Kind information to Director, LGBRIMH
9. I/C IT Cell – for uploading/displaying the Ministry Guidelines on the Institute website.
10. File Copy

Handwritten signature and date:
18/5/20

(Dr. H. Dutta)
OSD & Deputy Director
LGBRIMH, Tezpur

C.18018/20/2026-H-II
Government of India
Ministry of Health and Family Welfare
(Hospital-II Section)

Kartavya Bhavan-1, New Delhi
Dated 24-04-2026

To,

1. **The Principal Secretaries/Secretaries (Health) of States/UTs (As per the annexure-I)**
2. **Head of Hospitals/Institutions (as per annexure-II)**

Sub: SC No. 82/2026, State Vs Veer Bhan in Fast Track Special Court (POCSO)-02, Tis Hazari Courts, Delhi-reg.

Sir/Madam,

I am directed to forward herewith a copy of judgement dated 23.03.2026 passed by FTSC, West Tis Hazari Courts, Delhi on the above-mentioned subject (**Annexure-II**) with the request to take necessary action as per the direction of Hon'ble Court and also to provide **action taken report** to this Ministry at the earliest.

2. In this context, this Ministry's letter dated 17.04.2014 may be referred to whereby a copy of "*Guidelines and Examination Proforma for Medico legal cases of victims of Sexual Violence*" was sent to all the States/UTs with the request to bring the guidelines to the attention of all hospitals for adoption. The guidelines are available on the website of this Ministry at URL <https://www.mohfw-dohfw.gov.in/static/uploads/2025/10/c267f4a30c718dc0af979f93545611ce.pdf> . The said guidelines have also been forwarded vide this Ministry's letter dated 12.12.2022 (**Annexure-I**).

3. It is requested to give these guidelines top priority for dissemination, sensitization and implementation of these guidelines and sending report to this Ministry.

Encl: a/a

Digitally signed by Yours faithfully,
ABHISHEK PANDEY
Date: 24-04-2026
11:09:55

(Abhishek Pandey)

Under Secretary to the Government of India

☎: 011-2401 3282

Copy to:-

Director General of Health Services, Ministry of Health and Family Welfare,
Kartavya Bhavan-1, New Delhi.

All Principal Secretaries/Secretaries State/UTs

1. Pr. Secretary, Andhra Pradesh
2. Pr. Secretary, Arunachal Pradesh
3. Pr. Secretary, Assam
4. Pr. Secretary A&N Island
5. Pr. Secretary, Bihar
6. Pr. Secretary, Chhattisgarh
7. Pr. Secretary Chandigarh
8. Pr. Secretary D & N Haveli and Daman & Diu
9. Pr. Secretary, Delhi
10. Pr. Secretary, Goa
11. Pr. Secretary, Gujarat
12. Pr. Secretary, Haryana
13. Pr. Secretary, Himachal Pradesh
14. Pr. Secretary, Jammu & Kashmir
15. Pr. Secretary, Jharkhand
16. Pr. Secretary, Karnataka
17. Pr. Secretary, Kerala
18. Pr. Secretary, Ladakh
19. Pr. Secretary, Lakshadweep
20. Pr. Secretary, Madhya Pradesh
21. Pr. Secretary, Maharashtra
22. Pr. Secretary, Manipur

23. Pr. Secretary, Meghalaya
24. Pr. Secretary, Mizoram
25. Pr. Secretary, Nagaland
26. Pr. Secretary, Odisha
27. Pr. Secretary, Punjab
28. Pr. Secretary, Puducherry
29. Pr. Secretary, Rajasthan
30. Pr. Secretary, Sikkim
31. Pr. Secretary, Tamil Nadu
32. Pr. Secretary, Tripura
33. Pr. Secretary, Telangana
34. Pr. Secretary, Uttar Pradesh
35. Pr. Secretary, Uttarakhand
36. Pr. Secretary, West Bengal

Annexure-II

S. No.	Hospital/Institute
1.	Director AIIMS, Ansari Nagar, New Delhi
2.	Director AIIMS, Bhubaneshwar
3.	Director AIIMS, Bhopal
4.	Director AIIMS, Jodhpur
5.	Director AIIMS, Rishikesh
6.	Director AIIMS, Patna, Bihar
7.	Director AIIMS, Raipur, Chhattisgarh
8.	Director AIIMS, Gorakhpur
9.	Director AIIMS, Raebareli
10.	Director AIIMS, Mangalagiri
11.	Director AIIMS, Nagpur
12.	Director AIIMS, Bathinda Punjab
13.	Director AIIMS, Bibinagar
14.	Director AIIMS, Kalyani
15.	Director AIIMS, Deoghar
16.	Director AIIMS, Bilaspur, Himachal Pradesh
17.	Director AIIMS, Rajkot
18.	Director AIIMS, Guwahati
19.	Director AIIMS, Vijaypur(Jammu)
20.	Medical Superintendent, RML, hospital, New Delhi
21.	Medical Superintendent, Safdarjung Hospital, New Delhi
22.	Director, LHMC and Associate Hospital, New Delhi
23.	Director, JIPMER, Dhanvantari Nagar, Gorimedu, Puducherry
24.	Director, PGIMER, Kairon Block, Sector-12, Chandigarh
25.	Director, RIMS, Lamphelpat, Imphal, Manipur
26.	Dean, Mahatma Gandhi Institute of Medical Sciences (MGIMS), Wardha
27.	Director, NEIGRIHMS, Shillong
28.	Director, National Institute of Tuberculosis and Respiratory diseases, New Delhi
29.	Director, NIMHANS, Bengaluru
30.	Director, Central institute of Psychiatry (CIP), Ranchi
31.	Director, Vallabhbhai Patel Chest institute (VPCI), New Delhi
32.	Director, CNCI, Kolkata
33.	Director, RHTC
34.	Director, Lokopriya Gopinath Bordoloi Regional Institute of Mental Health (LGBRIMH), Tezpur, Assam
35.	Director, AIISH, Mysore
36.	Director, AIHPH, Kolkata

4819690
27/03/2026

बबिता पुनिया
BABITA PUNIYA



SC 82/2026
STATE Vs. VEER BHANU
FIR No. 969/2025
(NIHAL VIHAR)

अतिरिक्त सत्र न्यायाधीश-02 पश्चिम,
Additional Sessions Judge-02, West
फास्ट ट्रेक विशेष न्यायालय (पोक्सो अधिनियम)
Fast Track Special Court Under POCSO Act
कमरा संख्या 122, प्रथम तल
Room No. 122, First Floor
तीस हजारी न्यायालय, दिल्ली
THC, Delhi

To
The Secretary
Department
of Health &
family welfare
Ministry of Health & welfare
(MOHFW)

COPY OF THE JUDGMENT OF (CONVICTION/
DISMISSAL/REVERSAL OF ACQUITTAL/DISMISSAL OF
BAIL APPLICATION)

COVERSHEET TO THE COPY OF JUDGMENT

Govt. of India
for compliance
Secy (M) - in charging
JS (GM)
JS (RCH)

The convict has been informed that the convict may avail free legal aid facilities for pursuing higher remedies, for which they may contact for seeking appropriate guidance.

West Delhi Legal Services Authority

Address of the Authority: Room No. 295, Second Floor, Tis Hazari Courts, Delhi-110054.

Phone Number: 9667992792, 23968052

E-mail:- west-dlsa@nic.in.



(BABITA PUNIYA)
ASJ (FTSC) (POCSO)-02, WEST
TIS HAZARI COURTS, DELHI

अतिरिक्त सत्र न्यायाधीश
Additional Sessions Judge
फास्ट ट्रेक (पोक्सो अधिनियम)-02 पश्चिम
(FTSC) (POCSO)-02 West
तीस हजारी कोर्ट, दिल्ली
THC, Delhi

Handwritten notes and signatures:
JS (RCH)
air
PL. discont. 27/3/26
JS (RCH)
29/3
P. I send to concerned dept. 29/3
[Signature]

Ministry of Health & Family Welfare
Department of Health & Family Welfare
RCH Section

The copy of the judgement is received in MoH&FW for the compliance as mentioned in para-137 (page 169) of the judgement, which comes under the ambit of Hospital-II Section, MoH&FW. We may, therefore, forward the copy of the judgement to Hospital-II Section for further necessary action.

G.
Shi
02.04.24
S.O.(RCH)

• US(RCH) 24/2/2024

SO (Hospital-2)

IN THE COURT OF MS. BABITA PUNIYA
ASJ (FTSC) (POCSO)-02, WEST DISTRICT
TIS HAZARI COURTS, NEW DELHI

बबीता पुनिया
BABITA PUNIYA

State vs. Veer Bhan

अतिरिक्त सत्र न्यायाधीश-02 पश्चिम,
Additional Sessions Judge-02, West
फास्ट ट्रैक विशेष न्यायालय (पोक्सो अधिनियम)
Fast Track Special Court Under POCSO Act
कमरा संख्या 122, प्रथम तल
Room No. 122, First Floor
तीस हजारी न्यायालय, दिल्ली
THC, Delhi

SC No. 82/2026
FIR No. 969/2025
U/sec. 64(2)(m)/65(2)/351(2) BNS
&
Sec. 6 POCSO Act
PS: Nihal Vihar

Date of institution of the case: 29.01.2026
Date on which judgment is reserved: 17.03.2026
Date on which judgment is delivered: 23.03.2026

Unique I. D. No. DLWT01-001397-2026

JUDGMENT

- a) Date of commission of the offence : 23.12.2025
&
on some
other/previous
unknown
dates.
- b) Name of the complainant : Ms. 'Sh'
(name
withheld to
protect the
identity).
- c) Name of the accused and his parentage : Veerbhan, S/o
Sh. Biccha
Ram, R/o H.
No. RZF-149,
Nihal Vihar,



Delhi.

- d) Offence complained of : Sec. 64(2)(m)/
65(2)/351(2)
BNS & 6
POCSO Act.
- e) Offence charged of : Sec. 65(2)/
351(2) BNS &
6 POCSO Act.
- f) Plea of the accused : Pleaded not
guilty
- g) Final order : **Convicted**
- h) Date of such order : **23.03.2026**

BRIEF REASONS FOR THE JUST DECISION OF THE CASE:

1. Accused *Veer Bhan*, a 72 years old man, has been sent to face the trial for the offence punishable under sections 64(2)(m)/65(2)/351(2) of the *Bharatiya Nyaya Sanhita*, 2023 (herein after referred to as the BNS) and section 6 of the Protection of Children from Sexual Offences Act, 2012 (herein after referred to as the POCSO Act).

BRIEF BACKGROUND OF THE CASE:

2(i). The case involves an 8-year-old girl (hereinafter referred to as the victim), whose mother has expired while the father has abandoned her. Therefore, she is living with her maternal aunt (*mausi*) 'N'.



(ii). As per the prosecution's case, last year during winters i.e., on 23.12.2025, the victim went to a small *kirana* store run by the accused *Veer Bhan* to get some eatables (toffees etc). It is alleged that accused took her near the fridge in his shop and sexually assaulted her by inserting his penis into her mouth. During this period, his daughter-in-law, CW-1, passed by the shop, saw or noticed something suspicious, waited for the victim to come out, took her behind a stationed tempo, slapped and sternly warned her not to come to the shop again, and then took her towards her house. On the way, a neighbor, PW-2 met them. CW-1 told PW-2 that her father-in-law was doing wrong things with the victim and asked her to tell the victim's family not to send her to the shop anymore. PW-2 informed the victim's family. This is how the crime came to light.

(iii). Then, the victim's *mausi* and other family members including some neighbors went to the accused's *kirana* store, physically assaulted him and informed the police. The said information was recorded vide GD No. 139-A at police station *Nihal Vihar* at 20:15:26 hours. Relevant part of the GD, *Ex. PW-1/A* reads as under:

“कॉलर ने बताया की दुकानदार बच्ची जिसकी age 9 years जिसको खाने की चीजें देकर दुकानदार बच्ची के मुँह में गलत चीजें डालता है।.....”

(iv). The said GD Entry was marked to ASI *Narender Singh* for necessary action, who immediately went to the spot i.e., the



kirana store and met the accused as well the victim and her family. He, then, brought all of them to the police station and handed over them to SI *Pooja*.

(v). On inquiry, the victim told the IO, SI *Pooja* that accused had inserted his आगे वाला पार्ट into her mouth. She recorded the statement of victim, prepared the *rukka* and got the FIR registered. Relevant part of the statement, *Ex. PW-3/A* reads as under:

मैं अपने घर के पास बूढ़े अंकल की दुकान पर खाने की चीज लेने गई थी कल की बात है। अंकल ने मेरा हाथ पकड़कर मुझे दुकान के अंदर ले गए और अंकल ने मुझे fridge के पास खड़ा करके अपना पजामा खोलकर अपना आगे वाला Part मेरे मुंह में डाल दिया। मैं जब छटपटाने लगी तो अंकल ने कस कर मेरे दोनों हाथ पकड़ लिए और मुझे धमका कर बोले कि अगर मैंने किसी को कुछ बताया तो वह मुझे जान से मार देंगे। अंकल ने मेरा हाथ पकड़ा और मुझे पास में Plot लेकर जाने लगे वहाँ पर Bike और गाड़ी खड़ी हुई थी। फिर मैं plot के बाहर से ही अपना हाथ छुड़वाकर घर वापिस भागकर आ गई। अंकल ने पहले भी दो बार ऐसा मेरे साथ किया था। मैंने मौसी को सारी बात बताई.....

(vi). The accused was arrested vide *Ex. PW-9/B* and was taken to SGM hospital where he was medically examined vide *Ex. A-4*. However, no genital evidence/samples in the form of swab from penis; swab for suspected saliva was collected. Nor any reason for not collecting the samples was documented. After completing the formalities, the accused was remanded to J/C.



(vii). The victim was also got medically examined vide *Ex. PW-3/C* but the oral swab from her mouth (cheeks/buccal area, under the tongue etc.) was not taken or collected.

(viii). On 26.12.2025, the victim was produced before the learned JMFC, West, who recorded her statement under section 183 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (herein after referred to as the Code). Relevant part of the statement, *Ex. PW-4/A* reads as under:

“मैं दुकान गई थी, एक अंकल थे, टॉफी दिखाया मेरा हाथ पकड़ कर मुझे दुकान में लेकर गए, फिर पैंट उतारा, आगे का अपना मेरे मुँह में डाला। फिर प्लाट के अंदर जाने को बोल रहे थे। उनकी भांजी ने देख लिया था। फिर उसने मेरे गाल पर चांटा मारा गाड़ी के पास लेकर गई। गली की आंटी ने घर पर बता दिया।

(ix). Since the above statement was silent about the time of visiting the shop/occurrence, the SHO concerned moved another application for re-recording of the statement under section 183 BNSS. The application, in turn, was again marked by the learned CJM, West to the same learned Magistrate, who had earlier recorded the statement. The relevant part of the second statement, *Ex. PW-4/B* reads as under:

“मैं दुकान जा रही थी, चीज लेकर आई, वो मेरा हाथ पकड़ कर फ्रिज के पास लेकर गए थे। अपने आगे का मेरे मुँह में डाल रहे थे। उनकी बहु ने मुझे देख लिया था। मुझे गाड़ी के पास बुलाया। थप्पड़ मर कर घर भेजा कहा - 'इस दुकान पर मत आया करो' ”

घर भेज दिया था, एक आंटी ने मेरे घर पर बता दिया था।”



(x). The victim was also produced before the Child Welfare Committee – 1 (herein after referred to as the CWC) for age determination as she did not have any birth certificate or any other age-related document and had never attended any school. The CWC vide its order dated 02.01.2026 declared the age of the victim as eight (8) years. Relevant part of the order passed by the CWC reads thus:

“PSI Anubha produced the child on behalf of main IO, SI Pooja. As per the status report, there is no birth record, aadhar card of the child available. As per the child’s Mausi, the child has never been enrolled to school and her father has abandoned the family since more than 06 years.

In exercise of the power vested in Child Welfare 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 u/s 14 or section 36, as the case may be without waiting for further confirmation of the age”.

The child’s age is declared approximately 08 years old”.

(xi). During course of the investigation, CCTV installed (by PWD) near the place of alleged incident was checked and the footage of the relevant period was collected in a pen-drive. The said pen-drive was then sent to FSL, Rohini for analysis/examination.



(xii) After completion of investigation, charge-sheet under sections 64(2)(n)/65(2)/351(2) BNS and section 6 POCSO Act was filed against the accused before the court on 29.01.2026.

COGNIZANCE:

3. Vide order dated 29.01.2026, cognizance of the offence was taken and copy of the charge-sheet was supplied to accused under section 230 BNSS.

CHARGE:

4. Vide order dated 30.01.2026, charge under sections 65(2)/351(2) BNS and section 6 POCSO Act was framed against the accused to which he pleaded not guilty and claimed trial.

SUPPLEMENTARY CHARGE-SHEET:

5. On 12.02.2026, FSL result by way of supplementary *challan* was filed before the court. Relevant part of the FSL result, *Ex. A-7* reads as under:

“On laboratory examination of CCTV video files in Pen Drive marked ‘Exhibit -1’, it was observed that, each video file is continuous video footage of CCTV recordings. There was no indication of any form of alteration in the continuous video footage of CCTV recordings on the basis of frame-by-frame examination using Video Analyst System.



PROSECUTION EVIDENCE:

6. With a view to connect the accused with the crime, prosecution has cited as many as twenty-three (23) witnesses along with the *challan*.

PROCEEDINGS UNDER SECTION 330 BNSS:

7(a). During course of the trial, accused *Veer Bhan* was called upon to admit or deny genuineness of the documents filed along with the *challan/s*. He admitted the genuineness of recording of the following documents:

Sr. No.	Description of Documents	Whether admitted or denied	Remarks	Witness dropped
1	2	3	4	5
a.	FIR No. 969/2025; certificate under section 63(5) BSA and endorsement.	Genuineness of the document is not disputed	Formal proof dispensed with and the FIR was exhibited as <i>Ex. A-1</i> , Certificate as <i>Ex. A-2</i> and endorsement as <i>Ex. A-3</i>	PW/Duty Officer was dropped from the list of witnesses.
b.	MLC of victim No. 228-A dated 24.12.2025.	Genuineness of the document is not disputed	Formal proof dispensed with and MLC is <i>Ex. PW-3/B</i> .	PW/concerned doctor was dropped from the list of witnesses.



c.	MLC No. 37322 dated 24.12.2025 of accused.	Genuineness of the document is not disputed	Formal proof dispensed with and MLC is Ex. A-4.	PW/ Concerned doctor was dropped from the list of witnesses.
d.	Proceedings conducted under Section 183 BNSS, by Learned JMFC.	Genuineness of the proceedings was not disputed	Formal proof dispensed with and statement were Ex. PW-4/A and Ex. PW-4/B.	PW/learned JMFC was accordingly dropped.
e.	CWC order dated 02.01.2026.	Genuineness of the document is not disputed	Formal proof dispensed with and CWC order is Ex. A-5.	Witness mentioned at SI No. 9 in the list of witnesses was dropped from the list of witnesses.
f.	PCR Form of DD No. 139-A dated 23.12.2025.	Genuineness of the document is not disputed	Formal proof dispensed with and MLC is Ex. A-6.	Witness mentioned at SI No. 15 in the list of witnesses was dropped from the list of witnesses.
g.	FSL result dated 04.02.2026.	Genuineness of the document is not disputed	Formal proof dispensed with and FSL result is Ex. A-7.	Witness mentioned at SI No. 1 in the supplementary list of witnesses was dropped from the list of witnesses.



(b). Consequently, the witnesses mentioned in Column No. 5 of the above Table were dropped from the list of witnesses and following witnesses were examined.

8. PW-1/ASI *Narender* was the emergency officer, who attended the call regarding sexual assault.

(A)(i). He testified that on 23.12.2025, he was posted at *Nihal Vihar* police station as ASI. On that day, on obtaining DD No. 139A, Ex. PW-1/A, he went to the spot where he met the *Mausi* 'S' and 'N' (maternal aunts) of the victim. They narrated the whole story to him. Victim 'Sh' was also present there. Accused *Veer Bhan* was also present in his shop. Thereafter, he brought all of them to the police station.

(ii). He further stated that IO/SI *Pooja* recorded his statement.

(B). Under cross-examination on behalf of accused, he stated that he reached at the police station along with them at about 08:45 p.m. He stated that he had also lodged his arrival entry, however, he could not tell its number.

9. PW-2/*Smt. Sarojini* was the victim's neighbour and the chance witness.

(A). Her examination-in-chief reads as under:

(i). मैं एक दिन शाम के वक़्त ऑफिस से आ रही थी समय करीब 8:00 बजे होंगे। बच्ची को लेकर एक औरत गली में खड़ी थी और उसको धमका कर



रही थी। उस औरत ने मुझसे पूछा कि क्या तुम इस लड़की को जानती हो। मैंने बोला कि मैं जानती हूँ और यह मेरी गली में ही रहती है। तब उस औरत ने बोला कि यह बच्ची एक बूढ़े की दुकान पर जाती है और वो बूढ़ा उसको फ्रिज के पीछे ले जाता है। हम बोले कि हम नहीं जानते वो बूढ़ा कौन है तो उस औरत ने बोला कि वो लाला है, मेरा ससुर है और मैं उसकी बड़ी बहू हूँ। उस औरत ने कहा कि मैं तीन दिन से देख रही हूँ कि यह बच्ची दुकान पर आती है और बूढ़े फ्रिज के पीछे ले जाता है, मेरी बेटी भी सयानी है, उसके साथ भी गलत हो सकता है। उस औरत ने बताया कि वो दुकान से दो घर छोड़ कर रहती है।

Court Q - क्या उस औरत ने आपको बताया की वो बुढ़ा फ्रिज के पीछे ले जाकर क्या करता है?

Ans. उस औरत ने बताया कि फ्रिज के पीछे ले जाकर कुछ गलत करता है पर क्या गलत करता है वो उसने नहीं बताया।

(ii). उस औरत ने मुझे बोला कि आप इसके घर पर बता देना कि बच्ची को दुकान पर नहीं जाने दें। तब मैंने उसको बोला कि तुम खुद बता दो मैं नहीं बताऊँगी, तो उस औरत ने बोला कि अगर मैं बताऊँगी तो मेरे घर में पंगा हो जाएगा। तो मैंने, 'N' की बेटी को बोला कि इस बच्ची को दुकान पर मत जाने दो। उसके बाद मैं अपने घर चले गए।

Court Q- क्या आप उस बच्ची का नाम बता सकती हैं?

Ans. शायद 'SH' है। मैं जानती हूँ, गली में रहती है।

Court Q- क्या आप बता सकती हैं कि वो कितने साल की है?

Ans. 9 साल की है।

Court Q- क्या आप सूरज को जानती हो?



Ans. मैं नहीं जानती हूँ। शायद नीलम की बहन का बेटा है।

(B). Her cross-examination conducted on behalf of accused reads as under:

(i). मैं पीरागढ़ी में जूते की फैक्ट्री में काम करती हूँ। मेरी छुट्टी 07:30 के आस पास हो जाती है। मैं पैदल और रिक्शा से आती हूँ। उस दिन भी 07:30 बजे छुट्टी हुई थी। (Vol. मैं गरीब आदमी हूँ। मैंने यह बात सिर्फ इसलिए बताई ताकि बात बढ़ न जाए, कुछ गलत न हो जाए।)

(ii). जिस गली में मुझे वो औरत मिली थी, उस गली में वो दुकान नहीं है। दुकान पीछे है। मैं दुकान नहीं जाती हूँ। मैंने दुकान नहीं देखी है। मैं उधर नहीं जाती हूँ क्योंकि उधर मेरा कोई काम नहीं है।

(iii). मुझे तारीख याद नहीं है। हम पढ़े-लिखे नहीं हैं। पुलिस ने शायद मुझे तीसरे दिन पूछ-ताछ की थी। (Vol. मैंने पुलिस को बताया था।) मैंने थाने नहीं गई थी। पुलिस मेरे घर आई होगी, मुझे नहीं पता। (Vol. पहली वाली पुलिस मैडम ने मुझे वीडियो कॉल से बात की थी) ।

(iv). दूसरी पुलिस मैडम ने भी मुझसे पूछताछ की थी। उस बात को शायद 10-15 दिन हो गए हैं। दूसरी वाली मैडम मेरे घर नहीं आई थीं और न ही मैं थाने गई, उनसे भी मेरी बात फोन से हुई थी।

(v). मैंने पुलिस को सारी बात बता दी थी। मैंने पुलिस को यह भी बताया था कि “बच्ची को लेकर एक औरत गली में खड़ी थी और उसको धमका रही थी। उस औरत ने मुझसे पूछा कि क्या तुम इस लड़की को जानती हो। मैंने बोला कि मैं जानती हूँ और यह मेरी गली में ही रहती है”। Confronted with statement Ex. PW-2/D-1 wherein it is not so specifically



recorded but it is recorded that 'Sh' को बूढ़े की बहू मार रही थी (Vol. उस औरत ने मुझे बताया था कि उसने 'श' को एक चाटा मारा था) ।

(vi). मैंने पुलिस को यह भी बताया था कि "हम बोले हैं कि हम नहीं जानते वो बूढ़े कौन है तो उस औरत ने बोला कि वो लाला है, मेरा ससुर है और मैं उसकी बड़ी बहू हूँ। उस औरत ने बोला कि मैं तीन दिन से देख रही हूँ कि ये बच्ची दुकान पर आती है और बूढ़े फ्रिज के पीछे ले जाता है, मेरी बेटी भी सयानी है, उसके साथ भी गलत हो सकता है। उस औरत ने बताया कि वो दुकान से दो घर छोड़ कर रहती है". Confronted with statement Ex. PW-2/D-1 wherein it is not so recorded. (Vol. मैंने यह सारी बात पुलिस को बताई थी कि उस औरत ने मुझे बोला था कि वो बूढ़े बच्ची को फ्रिज के पीछे ले जाता है और भी सारी बातें बताई थीं) ।

Court Q- क्या पुलिस वाली मैडम ने आपको आपका बयान पढ़कर बताया था?

Ans. मैंने पुलिस वाली मैडम को बताया था और वो मुझे पढ़कर बता रही थी और पूछा था कि यही बात है तो मैंने कहाँ की यही बात है। यह बात उसने मुझे फोन पर बताई थी।

Q- क्या आपने पुलिस को यह बताया था कि 23.12.2025 को मैं गली से जा रही थी, जो गली में एक बूढ़े की दुकान है वहाँ पर मैंने देखा.....?

Ans. नहीं, मैंने उनको बताया था कि मैंने अपनी गली में देखा था 'SH' को और उसकी बहू को। मुझे बूढ़े की दुकान नहीं पता। Confronted with Ex. PW-2/D-1 wherein it is so recorded. (Objected to by Ld. Spl. PP for State).

(vii). मैंने पुलिस को यह भी बता दिया था कि "तब उस औरत ने बोला कि यह बच्ची एक बूढ़े की दुकान पर जाती है और वो बूढ़ा उसको फ्रिज के पीछे ले



जाता है". Confronted with Ex. PW-2/D-1 wherein it is not so recorded. However, it is recorded that बूढ़े उसके साथ गलत हरकत करता है और इसको दुकान पर ना भेजा करे।

(viii). मैंने पुलिस को यह भी बता दिया था कि "उस औरत ने मुझे बोला कि आप इसके घर पर बता देना कि बच्ची को दुकान पर नहीं जाने दे। तब मैंने उसको बोला कि तुम खुद बता दो मैं नहीं बताऊँगी, तो उस औरत ने बोला कि अगर मैं बताऊँगी तो मेरे घर में पंगा हो जाएगा।" Confronted with Ex. PW-2/D-1 wherein it is not so recorded. However, it is recorded that इसको दुकान पर ना भेजो। मैंने पुलिस को ज़्यादा नहीं बताया था सिर्फ़ इतना बताया था कि औरत उस बच्ची को लेकर गली में खड़ी थी और डाट रही थी और उसने बोला कि बच्ची को दुकान पर मत भेजा करो, बूढ़ा गलत हरकत करता है।

Court Q- आपने पुलिस को इतना खुलकर क्यों नहीं बताया जो आप आज कोर्ट में बता रहे हो?

Ans. आप लोग आराम-आराम से और प्यार से पूछ रहे है इसीलिए सारी बात बता दी ।

(ix). मैंने 'न' की बड़ी वाली बेटी को बताया था शायद से वो 16-17 साल की होगी, मुझे ठीक से नहीं पता ।

(x). यह बात मैंने पुलिस को बताई थी कि "तो मैंने, 'N' की बेटी को बोला कि इस बच्ची को दुकान पर मत जाने दिया करो". Confronted with Ex. PW-2/D-1 wherein it is not so recorded. Instead, it is recorded that मैंने सूरज को बता दी । (Vol. मैंने तो 'न' की बेटी को बताया था, बेटी ने सूरज को बताया होगा) ।



(xi). 'N' मेरी पड़ोसन है, मेरी गली में ही रहती है। मैं करीब 10-12 साल से इस गली में रह रही हूँ। 'N' की फॅमिली करीब डेढ़-दो साल से रह रही है।

(xii). यह कहना गलत है कि मैंने 8:00 बजे बूढ़े की बहू को बच्ची के साथ नहीं देखा और ना ही ऐसा कुछ हुआ जो आज मैंने कोर्ट में बताया है। यह कहना गलत है कि 'N' की पड़ोसी और जानकर होने के नाते मैं आज झूठी गवाही दे रही हूँ। यह कहना गलत है कि मैं 'N' के कहने पर झूठी गवाही दे रही हूँ (Vol. झूठी गवाही नहीं जो मैंने देखा- सुना वही बता रही हूँ)। यह कहना गलत है कि आरोपी को झूठा फंसाने के लिए 'N' के कहने पर झूठी गवाही दे रही हूँ। यह कहना गलत है कि मैंने पुलिस को जो बोला था पुलिस ने वही लिखा था और आज जो मैंने बोला कि मैंने पुलिस को थोड़ा बताया था वो मैं जान बूझकर झूठ बोल रही हूँ।

10. PW-3/Smt. 'N' was the maternal aunt of the victim with whom she is living.

(A). Her examination-in-chief reads as under:

(i). मैं कोठियों में खाना बनाने का काम करती हूँ। मेरे 7 बच्चे हैं, जिसमें से 5 मेरे अपने बच्चे हैं और दो मेरी बहन के बच्चे हैं। जिसमें से 'SH' बड़ी है वो 9 साल की है। मेरी बहन की मौत हो चुकी है इसलिए उसकी दो बेटियाँ मेरे साथ ही रहती हैं। 'SH' घर के पास ही ट्यूशन पढ़ने जाती है।

(ii). एक दिन जब मैं काम से घर के लिए निकल रही थी तो मेरी बहन के बेटे सूरज का फोन आया करीब 6:00/6:30 बजे और उसने मुझे कहा कि मौसी घर आ जाओ 'SH' के साथ कुछ गलत हो गया है, जब मैंने पूछा कि क्या गलत हो गया है तो उसने कहा कि घर आ जाओ फिर मैं घर आ गई।



(iii). उसके बाद मैंने 'SH' से पूरी बात पूछी तो उसने नहीं बताई। फिर मैंने उसको 2 थप्पड़ लगाए तो उसने बताया कि तीन दिन से अंकल अपनी दुकान में उसको फ्रिज के पीछे लेकर जाते हैं और पेंट खोलकर अपना प्राइवेट पार्ट उसके मुंह में डाल देते हैं। उसके बाद मैंने 'श' को लेकर अपनी बहन 'SH' के साथ उस अंकल की दुकान पर गई तो अंकल मिले और उन्होंने कहा कि मैंने कुछ नहीं किया और जब मैंने सख्ती से पूछा तो अंकल ने कहा कि मुझसे गलती हो गई मुझे माफ़ कर दो। उसके बाद हमने 112 नंबर पर कॉल कर दिया और पुलिस आ गई। फिर उनको भी पुलिस स्टेशन ले गए और हमको भी ले गए।

(iv). सरोजिनी आंटी हमारी गली में रहती है। उसी दिन वो आ रही थी तो उसने देखा कि एक औरत 'SH' को थप्पड़ मार रही थी तो आंटी ने पूछा कि क्यों मार रही हो, ये लड़की तो हमारी गली में रहती है। तो उस औरत ने सरोजिनी को बताया कि मैं तीन दिन से देख रही हूँ कि ये बच्ची तीन दिन से लगातार मेरे ससुर की दुकान पर आ रही है और वो उसका हाथ पकड़कर फ्रिज के पीछे ले जाते हैं। उस औरत ने सरोजिनी को बोला कि आप इसके घर पर बता देना कि बच्ची दुकान पर ना आएँ।

(v). ठाणे में हमने सारी बात बताई कि हमारी बच्ची के साथ क्या हुआ है। पुलिस ने रात में थोड़ी बहुत लिखा-पढ़ाई की और हमने अगले दिन सुबह बुलाया और बच्ची का मेडिकल कराया। मेडिकल करवाते-करवाते शाम हो गई थी।

(vi). मैंने बच्ची 'SH' के बयान पर अंगूठा पॉइंट A पर लगाया था जो Ex. PW-3/A है। मैंने साइट प्लान Ex. PW-3/B पर भी अंगूठा लगाया था जो पॉइंट A पर है। जब मेरी बच्ची 'SH' का मेडिकल हुआ था तब मुझसे भी अंगूठा लगवाए गए थे। Witness has correctly identified her thumb impression at point A on the MLC/Ex. PW-3/C.



(vii). पूजा मैडम ने 'श' से पूछ-ताछ की थी जिस पर मैंने अंगूठा लगाया था पर पूछ-ताछ मेरे सामने नहीं की थी. The questionnaire/examination report of child victim is Ex. PW-3/D bearing my thumb impression at point A.

(viii). पुलिस ने मेरे सामने ही बूढ़े अंकल को पकड़ा था और एक कागज पर साइन करवाए थे।

(ix). मैं उस बूढ़े अंकल को पहचान सकती हूँ (Identity not disputed). मैं 'Sh' को लेकर कोर्ट भी आई थी जब उसका बयान जज साहब के सामने हुआ था।

(B). Her cross-examination conducted on behalf of accused reads as under:

(i). मैं शाम के करीब 7:00/7:15 बजे घर पहुँच गई थी। उस समय मेरे घर पर मेरी बहन 'S', सूरज, सरोजिनी और बच्चे थे। सरोजिनी ने मुझे उसी दिन बताया था कि उसने क्या देखा था।(Vol. सूरज ने मुझे फ़ोन किया था)। मेरी पति बैटरी रिक्शा चलाते हैं। मैंने अपने पति को फ़ोन नहीं किया था क्योंकि उनके पास फ़ोन नहीं है। मेरे पति रात को 10:00 बजे घर आए थे, बच्चों ने उनको बताया होगा, मैं उस वक़्त घर पर नहीं थी। मेरे पति उस दिन थाने नहीं आए थे।

(ii). मैं, मेरा बेटा 'R', सूरज, 'Sh' और 'S' थाने गए थे उसी रात जिस दिन की घटना है, जिस दिन मैं बूढ़े की दुकान पर गई थी उससे पूछने। अगले दिन भी मेरे पति थाने नहीं गए थे। 24 तारीख को हम थाने सुबह 10:00 बजे



गए थे और रात को करीब 1:30 बजे वापस आए थे। (Vol. थाने से हम SGM अस्पताल रात के करीब 10:00/10:30 बजे गए थे।

(iii). घर पहुँचते-पहुँचते 1:30 बज गया था। 24 तारीख को भी मैं, 'R', 'S', 'Sh' और सूरज थाने गए थे।

(iv). 23 तारीख को पुलिस ने 'Sh' से पूछताछ की थी (Vol. थोड़ा बहुत पूछ-ताछ की थी)। 23 तारीख को 'Sh' ने पुलिस को बता दिया था कि बूढ़े चाचा ने उसके साथ गलत हरकत की है। (Vol. उस दिन बहुत भाग-दौड़ हो रही थी तो उस दिन सारी बात नहीं बताई थी।) 23 तारीख को मैंने पुलिस को सारी बात बता दी थी जो बात मैंने आपको बताई है। पुलिस वालों ने लिखा था जो मैंने और 'Sh' ने बताया था। (Vol. वो कोई पुलिस वाले सर थे) ।

(v). बूढ़े अंकल को पुलिस ने 23 तारीख को पकड़ा था। 11:00/11:30 बजे शायद पुलिस ने 'Sh' से पूछ-ताछ की थी। पुलिस जो पूछ रही थी वो लिख भी रही थी। मुझसे भी पुलिस ने पूछ-ताछ की थी और लिख भी रहे थे जो मैं बता रही थी।

(vi). मैंने पुलिस को नहीं बताया था कि यह दोपहर की घटना है। Confronted with her statement Ex. PW-3/D-1 wherein 'दोपहर' is written (Vol. मैंने नहीं बताया था) । यह कहना गलत है कि हमने पुलिस को दोपहर का समय बताया था इसलिए पुलिस ने दोपहर लिखा है। (Vol. पुलिस उससे पूछ रही थी कि तुम दुकान पर कब-कब जाती थी तब 'SH' ने बताया था कि वो कभी दोपहर में चली जाती थी और कभी शाम में चली जाती थी तो शायद पुलिस ने दोपहर लिख दिया होगा पर हमने दोपहर नहीं बताया था) ।

(vii). जब पुलिस बच्ची से पूछ-ताछ कर रही थी तो मैं उसके साथ होती थी पर पुलिस मुझे बोल देती थी कि आप बाहर चले जाओ तो मैं बीच-बीच में



बाहर चली जाती थी। मुझे ध्यान नहीं है कि पुलिस ने मुझसे कितनी बार पूछ-ताछ की थी (Vol. तीन बार की तो बात मुझे याद है)।

Court Q-आप कितना पढ़े-लिखे हो?

Ans. मैं पढ़ी-लिखी नहीं हूँ।

(viii). बच्ची के साथ भी तीन बार ही पूछ-ताछ हुई थी। पुलिस लिखती थी और मुझसे और 'SH' से अंगूठा लगवाती थी। पुलिस हमें पढ़कर नहीं बताती थी कि वो क्या लिख रही है। मुझे इतना ध्यान नहीं है कि 'SH' ने पुलिस को प्लॉट वाली बात बताई थी। फिर कहा, प्लॉट वाली बात तो नहीं बताई थी। मुझे भी प्लॉट वाली बात 'SH' ने नहीं बताई थी।

(ix). पुलिस ने मेरे सामने Ex. PW-3/A लिखा था। निहाल विहार थाने में पूजा मैडम ने पूछ-ताछ की थी (regarding Ex. PW-3/D). यह दोपहर की बात है, उस समय 2:00/2:30 बज रहे थे। 10 से 15 मिनट ही मैडम ने पूछ-ताछ की थी। At this stage, witness is explained that 'हम आपसे अभी 6 जनवरी की पूछ-ताछ की बात कर रहे हैं। 6 जनवरी को तो पुलिस ने निहाल विहार थाने में पूछ-ताछ की थी 4:00/4:30 बजे के करीब। मैं वही पर थी

Court Q- आपने ऊपर बताया कि पूजा मैडम ने आपको बाहर भेज दिया था और आप अभी बोल रहे हो कि आप वही थे, कौन सी बात सच है?

Ans. मैंने आपको यह भी बताया कि वो मुझे बोल देती थी 'N' आप बाहर चले जाओ।

(x). 'Sh' ने पुलिस को 6 तारीख की पूछ-ताछ में बताया था की वो औरत उसकी भांजी नहीं बहु है. 'SH' ने पुलिस को नहीं बताया था की उसने चीज़ के लिए लड़ते देखा था तो चाटा मारा था। 'SH' ने पुलिस को यह बताया था कि यहाँ चीज़ लेने मत आया था। 'SH' ने तीन दिन का ही रद्दा लगा रखा था



और उसने पुलिस को भी यही बताया था कि बूढ़े अंकल तीन दिन से उसके साथ यह हरकत कर रहे हैं। Confronted with Ex. PW-3/D wherein it is recorded that 'पहली बार किया था' (Vol. पुलिस को 'SH' ने तीन दिन बताया था, मुझे नहीं पता पुलिस ने पहली बार क्यों लिखा)।

Q- 'रट्टा' से आपका क्या मतलब है?

Ans. 'Sh' हर जगह तीन दिन ही बता रही थी कि तीन दिन से बूढ़े अंकल उसके साथ गलत हरकत कर रहे हैं।

(xi). मैंने पुलिस को बता दिया था कि बूढ़े अंकल तीन दिन से 'श' के साथ गलत हरकत कर रहे हैं। Confronted with Ex. PW-3/D-1 wherein it is not so recorded.

(xii). 'Sh' ने मुझे बताया था कि बूढ़े अंकल की बहू ने देख लिया था जब बूढ़े अंकल उसको फ्रिज के पीछे ले जा रहे थे। चीज़ वाली बात 'SH' ने नहीं बताई थी। Confronted with Ex. PW-3/D wherein it is recorded that "चीज़ के लिए लड़ रहे थे वही देखा था"।

(xiii). 'Sh' ने मुझे बताया था कि अंकल उसका हाथ पकड़कर दुकान के अंदर ले गए। 'Sh' ने यह भी मुझे बताया था कि अंकल ने टॉफी दिखाई थी और उसको अंदर बुलाया था (Vol. बूढ़े अंकल बोल रहे थे कि मैं तुझे (Sh) टॉफी दूंगा। मैंने बच्ची को उस दिन 20 रुपये दिए थे। मैं अपने बच्चों को भी टॉफी-कुरकुरे खाने के लिए देती हूँ। 'Sh' ने 10 रुपये खर्च कर दिए थे।

(xiv). मैंने यह बात पुलिस को बताई थी कि 'फिर मैंने उसको 2 थप्पड़ लगाए तो उसने बताया कि तीन दिन से अंकल अपनी दुकान में उसको fridge के पीछे लेकर जाते हैं और पैंट खोलकर अपना private part उसके मुंह में डाल देते हैं।' Confronted with Ex. PW-3/D-1 wherein it is not so



recorded. (Vol. मैंने तो पुलिस को बताया था पुलिस ने क्यों नहीं लिखा मुझे नहीं पता) ।

Court Q- क्या पुलिस जो आपसे पूछ-ताछ करती थी वो हाथ से लिखती थी या कंप्यूटर पर?

Ans. हाथ से लिखती थी ।

(xv). मैंने यह बात पुलिस को बताई थी कि 'उन्होंने कहा कि मैंने कुछ नहीं किया और जब मैंने सख्ती से पूछा तो अंकल ने कहा कि मुझसे गलती हो गई मुझे माफ़ कर दो'। Confronted with *Ex. PW-3/D-1* wherein it is not so recorded.

(xvi). यह कहना गलत है कि सरोजिनी मुझे नहीं मिली थी जब मैं घर वापस आई उस दिन और ना ही उसने मुझे कुछ बताया। वीडियो कॉल पर पूजा मैडम ने सरोजिनी से पूछ-ताछ की थी। मेरे सामने सरोजिनी से किसी और से पूछ-ताछ नहीं की थी। यह कहना गलत है कि मैंने जान-बूझकर सरोजिनी का नाम बताया है अपने केस को पुख्ता करने के लिए और accused को झूठा फंसाने के लिए। यह कहना गलत है कि सरोजिनी को एक झूठा गवाह बनाकर केस में पेश किया है accused को झूठा फंसाने के लिए। यह कहना गलत है कि 'SH' ने मुझे कुछ नहीं बताया और उसके साथ बूढ़े अंकल ने कुछ गलत नहीं किया।

(xvii). हमारी गली में कोई दुकान नहीं है। मैं बूढ़े अंकल की दुकान पर नहीं जाती। (Vol. हमारी गली के नुक्कड़ पर दुकान है हम वहा जाते हैं)। यह कहना गलत है कि हम बूढ़े अंकल की दुकान पर जाती थीं और वहा से सामान लेते थे और हमारा काफी बकाया भी था इस वजह से अंकल हमें सामान देने से मना कर देते थे और हमारा इस वजह से झगड़ा भी रहता था और इसी वजह से हमने इसको झूठे केस में फंसा दिया। (Vol. मैंने इस बूढ़े अंकल को पहले कभी



देखा ही नहीं था। अगर हम किसी से सामान लेते हैं और हमारे 5 रुपये भी बकाया रह जाते हैं तो वो दुकान वाला लिख लेता है, अगर मैंने इससे सामान लिया तो इसके पास लिखा होगा। यह कहना गलत है कि मैंने 'SH' का इस्तेमाल करके बूढ़े अंकल पर झूठा केस किया है। यह कहना गलत है कि मैं आज झूठ बोल रही हूँ।

11. PW-4/ 'Sh' was the victim. Her testimony was recorded in VWDC room as per norms.

(A). Her examination-in-chief reads as under:

(i). मैं दुकान जा रही थी। अंकल मेरे हाथ पकड़कर फ्रिज के पास लेकर गए थे और अपने आगे का मेरे मुँह में डाल रहे थे।

Q- अपने आगे से आपका क्या मतलब है?

Ans. बाथरूम करने वाला।

(ii). उनकी बहू ने मुझे देख लिया था। फिर टेम्पो के पीछे लेकर गई थी। उसने मेरे थप्पड़ मार के बोला था कि यहाँ पर दुकान पर मत आया करो। फिर उनकी बहू ने उन आंटी को जो मेरे घर के सामने रहती हैं उनको बता दिया था। फिर उन आंटी ने मेरी दीदी को बताया था। दीदी ने मेरे भैया को बताया था। मुझे अपनी दीदी और भैया का नाम नहीं पता। मैं उनको दीदी और भैया बोलती हूँ। फिर भैया ने मेरी मौसी 'N' को फोन करके बताया था। मौसी आई थी। फिर मौसी ने पुलिस को फोन कर दिया। पुलिस बूढ़े अंकल को लेकर चली गई थी।

Q- बूढ़े अंकल को पुलिस कहाँ से लेकर गई थी?

Ans. उसकी दुकान से।



(iii). मुझे बूढ़े अंकल का नाम नहीं पता। मैं भी थाने गई थी। मेरी मौसी वगैरह भी गई थी। पुलिस मुझसे पूछ रही थी तो मैंने उनको बता दिया था।

Q- क्या बता दिया था?

Ans. जो मैंने आपको बताया है।

(iv). मुझसे किसी ने कोई अंगूठा नहीं लगवाया था। मैं हॉस्पिटल भी गई थी और मैं वहां पर भी आई थी जहां आप पहले कोर्ट में थे। मैं दूसरी मैडम के पास भी गई थी। दूसरी मैडम ने थोड़ी देर पूछा था और मैंने उनको बता दिया था। मैंने उनको भी वही बताया था जो आपको बताया है। हॉस्पिटल में डॉक्टर ने मुझसे कुछ नहीं पूछा था।

Court Q- क्या बूढ़े अंकल ने पहले भी आपके साथ ऐसा किया था?

Ans. हाँ। किया था। पर मुझे यह याद नहीं है कि कितने दिन किया था।

(a). Then, original documents from the envelope were taken out and the statement/complaint of the victim dated 24.12.2025 was shown to her through support person, who read over to the same to her. On hearing the same, the victim stated that it is the same statement which was made by her to the police. She also correctly identified her thumb impression at point B on the statement/complaint/Ex. PW-3/A.

(b). When her MLC dated 24.12.2025 prepared at SGM Hospital, Ex. PW-3/B was shown to her, she identified her thumb impressions on the same at point B.



(c)(i). When her statement dated 26.12.2025 recorded by the learned Magistrate under section 183 BNSS, Ex. PW-4/A was read over to her, admitted having made the same and also identified her thumb impression on it at point A.

(ii). When her second statement dated 16.01.2026 recorded by the learned Magistrate under section 183 BNSS, Ex. PW-4/B was read over to her, admitted having made the same and also identified her thumb impression on it at point A.

(iii). मैंने वो बूढ़े अंकल की दुकान पुलिस को दिखाई थी। When the site plan (undated), Ex. PW-3/C was shown to her through the Support Person, she identified her thumb impression on it at point B.

(iv). When her attention was drawn towards the questionnaire. Ex. PW-3/D, she identified her thumb impression on it at point B.

(v). When accused *Veer Bhan*, who was sitting in a separate room, was shown to her on a screen, she correctly identified him, stating वही अंकल दिख रहे हैं।

(d). The Pen Drive was played in the VWDC room. It was found containing one folder and smart player application. When the folder was clicked, it was found containing two videos. Then, the video dated 23.12.2025 was played and screen was shared with the child victim.



- (i). At about 17:25:38 hours - यह मैं हूँ।
- (ii). At around 17:25:45 - अंकल है और मैं हूँ। जो बच्चा बैग लेकर दिख रहा है वो अंकल का बेटा है और जो बच्ची दिख रही है वो मैं हूँ।
- (iii). At around 17:27:21 - अभी मैं टेबल के पास खड़ी हूँ।

Court Q- वो बच्चा जिसके पास बैग था वो कहाँ गया?

Ans. घर के अंदर।

- (iv). At about 17:28:31 - पर मैं दिख रही हूँ दुकान से बाहर आते हुए। उसके बाद मैं वापस अंदर चली गई थी।

Q- आप बाहर क्या करने आए थे?

Witness has gone silent.

- (v). At about 17:30:29 - मैं अंदर हूँ, फ्रिज के पास।

- (vi). At about 17:30:55 - the lady is seen coming in the gali and passing through the shop. At this stage, the victim has also come out.

Court Q- यह lady कौन है?

Ans. अंकल की बहू है।

- (e). Then, the second video was played.

- (i). At about 17:32:10 - that lady is again seen in the CCTV footage and it appears that she is waiting. She is looking at her phone.



(ii). At around 17:32:53 - that lady has started walking ahead.

(iii). At about 17:33:02 - the child is also seen coming. The child stated that यह मैं हूँ, मैं truck के पीछे हूँ। Truck के पीछे आंटी लेकर गई थी और आंटी ने थप्पड़ मारा था और बोला था कि उस दुकान पर मत जाया कर।

(iv). At about 17:34:13 - that lady and victim again seen. Witness stated that अब हम मेरे घर जा रहे हैं।

(B). Then, permission was sought by the learned Prosecutor to put the questions to her which can be put in cross-examination as she was not disclosing the complete facts. The same was objected by the learned defence counsel on the ground that cross-examination cannot be done in examination-in-chief. However, the permission was granted under section 154 Indian Evidence Act (section 157 BSA) r/w first proviso appended to section 162 (1) of the Code (section 181 BNSS).

(C). Her cross-examination conducted on behalf of State reads as under:

(i). जब अंकल मेरे मुँह में अपना आगे वाला हिस्सा डाल रहे थे तो मैंने अपने आपको छुड़ाने की कोशिश की थी। अंकल ने मेरे दोनों हाथ पकड़ लिए थे। अंकल ने मुझे यह भी बोला था कि अगर किसी को यह बताया तो तुम्हें जान से मार दूंगा। अंकल ने मुझे बोला था कि मैं तुम्हें टॉफी दूंगा। मैंने प्लॉट वाली बात पुलिस को बताई थी। प्लॉट उनके बगल में है जहाँ इनका घर है। मैं



प्लॉट से हाथ छुड़ा कर भागी थी, यह उसी दिन की बात है। (VoII प्लॉट है सीसीटीवी में दिख रहा था।

Court Q- हमें सीसीटीवी में तो आप हाथ छुड़ाकर भागते हुए नहीं दिख रहे हो?

The witness has gone silent.

Court Q- यह उस दिन की बात है या किसी और दिन की बात है?

Ans. यह पहले की बात है।

(D). Her cross-examination conducted on behalf of accused reads as under:

(i). मैं ट्यूशन पढ़ने जाती हूँ। 3:00 बजे जाती हूँ। घर से थोड़ी दूर पर है मेरी ट्यूशन। मैं ट्यूशन से 6:00 बजे आती हूँ। जब मैं गाँव से आई थी तब से ट्यूशन पढ़ती हूँ। मुझे नहीं पता कि मैं गाँव से कब आई थी, कितने महीने हो गए मुझे नहीं पता। उस दिन भी मैं ट्यूशन गई थी।

(ii). मैं जिस दिन सीसीटीवी में दिख रहा है उससे पहले भी मैं बूढ़े अंकल की दुकान पर गई थी पर मुझे नहीं पता कि कितने दिन पहले गई थी। उस दिन मैं सिर्फ एक ही बार दुकान पर गई हूँ।

(iii). मैंने पुलिस को बताया था कि मैं पहली भी दुकान पर गई थी और उस दिन (alleged incident) सिर्फ एक ही बार गई थी। जब पुलिस मुझसे पूछ-ताछ करती थी तो हमेशा मौसी मेरे साथ होती थी।

(a). CCTV footage was again played in the VWDC room.



At about 17:07:47 - one girl is seen going towards the shop of accused. Victim has stated that यह लड़की मैं हूँ।

Court Q- आप इतनी देर से दुकान पर क्या कर रहे हो?

Ans. मैं सामान ले रही हूँ।

Court Q- क्या सामान ले रहे हो?

Ans. कुरकुरे।

Court Q- इतना टाइम क्यों लग रहा है?

Ans. वो जो दूसरे अंकल आए थे उनको सामान दे रहे थे।

At about 17:14:13 - the witness is seen leaving the shop.

मैं कुरकुरे लेकर आई थी।

Court Q- आप दुकान पर दोबारा क्यों आए थे?

Ans. मैं टॉफी भूल गई थी।

(iv). मैंने पुलिस को यह बताया था कि अंकल मुझे हाथ पकड़कर दुकान के अंदर लेकर गए थे।

(v). जब मैं टेबल के पास खड़ी थी तब अंकल मेरे हाथ पकड़कर फ्रिज के पास लेकर गए थे।

(vi). मैंने पुलिस मैडम को यह बताया था कि अंकल ने मुझे टॉफी दिखाकर अंदर बुलाया था। मैंने टॉफी नहीं ली थी। अंकल मुझे टॉफी दिखा रहे थे अंदर fridge के पास आने के लिए। अंकल उस वक्त टेबल के पास खड़े थे। अंकल



वहां खड़े थे जहां टॉफी के डब्बे रखे हुआ है। दुकान पर कोई स्टूल नहीं था। Fridge के पीछे जगह है

(a). Her further cross-examination was deferred as the voice was not going to the witness in the VWDC room due to some technical problem. The technician could not fix the problem till 04:50 p.m.

(b). Next day, her cross-examination resumed and one colored photograph was shown to her through the Support Person. After seeing the same, the victim stated that 'यह फोटो दुकान का है'. The same is Ex. PW-4/DA (Objected to by Ld. Spl. PP regarding mode of proof).

(i). उस दिन भी दुकान में फ्रिज ऐसे ही रखा हुआ था।

Q- क्या आप Ex. PW-4/DA को देखकर बता सकते हो कि जब अंकल आपको टॉफी देने के लिए बोल रहे थे तब वो कहाँ खड़े थे?

Ans. The point pointed out by the witness is marked as Mark A.

Then another photograph was shown to her. After seeing the same, she stated that यह फोटो भी दुकान का है. Same is Ex. PW-4/DA-1.

Q- क्या आप बता सकते हो कि जो आपने बोला कि उनको ने अपने आगे वाले हिस्से को आपके मुँह में डाला, उस वक़्त आप कहाँ थे और अंकल कहाँ थे?



Ans. The witness has pointed out two points. Point A is the place where she stated that she was standing while point B is the position of accused.

(ii). जब मैं दोबारा दुकान पर गई थी तब मैं 10 रुपये लेकर गई थी। पहली बार भी मैं 10 रुपये लेकर गई थी। पहली बार गई थी तो कुरकुरे लेकर आई थी और दोबारा गई थी तो टॉफी लेकर आई थी। मैं पूरे 10 रुपये की टॉफी ले आई थी।

(iii). मैंने यह बात कि मैं दुबारा टॉफी लेने गई थी दूकान पर, पुलिस को बताई थी। Confronted with already Ex. PW-3/A and Ex. PW-4/D, wherein it is not so recorded. मुझे नहीं पता पुलिस ने क्यों नहीं लिखा।

Q- आपसे पुलिस मैडम ने पूछा था की आप दूकान पे क्या लेने गए थे तो आपने बताया था की आप कुरकुरे लेने गए थे। क्या यह बात सही है ?

Ans. मैम ने पूछा ही नहीं था कि क्या लेने गए थे। (Confronted with Ex. PW-3/D wherein it is so recorded at Q-1).

Q- आपने जज मैडम को बताया अपने पहले वाले बयान में Ex. PW-4/A की 'फिर पैंट उतारी', तो क्या आप बता सकते हो कि तो अंकल ने पैंट उतार कर कहाँ रखी थी?

Ans. पैंट पूरी नहीं उतारी थी।

Q- क्या आपको पैंट और पजामे में फर्क पता है?

Ans. नहीं पता।

Q- क्या अंकल ने alleged act (जो आपने कहाँ की आगे वाला हिस्सा मुँह में डाला था) से पहले आपसे कोई बात की थी?



Ans. नहीं ।

Q- क्या अंकल ने alleged act (जो आपने कहाँ की आगे वाला हिस्सा मुँह में डाला था) के बाद आपसे कोई बात की थी?

Ans. नहीं ।

(iv). 'N' मौसी के 7 बच्चे हैं मेरे अलावा। 'S' मौसी के एक बच्चा है, लड़की है पर मैं उसका नाम भूल गई।

(v). 'N' मौसी या उनके और बच्चे कोई भी uncle/accused की दुकान पर सामान लेने नहीं जाती। मैं पहले कभी भी अपने घरवालों के साथ चाचा की दुकान पर नहीं गई।

Q- आपने बताया कि अंकल आपके साथ पहले भी गलत काम कर चुके थे तो आप दोबारा अंकल की दुकान पर क्यों नहीं गए?

Ans. मैंने अंकल को बोला था कि मैं अपने घर पर अपनी मौसी को बता दूंगी तो अंकल ने कहा कि अगर किसी को बताया तो वो मुझे जान से मार देंगे।

(vi). मुझे अच्छा नहीं लगता था पर उस दुकान पर अच्छी टॉफी मिलती थी इसलिए मैं उस दुकान पर जाती थी। Witness has put her hand on her mouth and stated that मैंने चिल्लाया नहीं क्योंकि अंकल ने मेरा मुँह पकड़ा रखा था। जब अंकल ने हाथ हटाया था तो मैं चिल्लाई थी। मैंने अंकल को दांत से काटने की कोशिश नहीं की।

(vii). दुकान में मेरे अंकल से कोई झगड़ा नहीं हुआ। अंकल ने जब मेरे मुँह से हाथ हटाया तो उनकी थोड़ी देर बाद मैं बाहर आ गई थी। जब बुझे अंकल की बहू दुकान से जा रही थी तब मैं दुकान में जो बड़ा सा टेबल रखा है वह खड़ी थी। बहू ने तब देखा था जब मैं टेबल के पास खड़ी थी।



Q- पुलिस वाली मैडम ने मुझसे पूछा था कि अंकल ने क्या पहले भी आपके मुँह में आगे वाला पार्ट डाला था तो आपने कहा था, नहीं, अंकल ने पहली बार ही किया था। क्या आपने ऐसी मैडम को बताया था?

Ans. हाँ।

(viii). मैंने पुलिस वाली मैडम को नहीं बताया था कि बहू ने मुझे चीज़ के लिए लड़ते देखा। Confronted with Q-13 of Ex. PW-3/D wherein it is so recorded.

(ix). मैंने वो प्लॉट भी पुलिस को दिखाया था। मैंने पुलिस को उस दिन की घटना और उससे पहले की भी सारी बातें बता दी थीं। मैंने पुलिस को बताया था कि अंकल ने मेरा हाथ पकड़ा और मुझे पास प्लॉट में लेकर जाने लगे, वहा बाइक और गाड़ी खड़ी हुई थी।

Court Q- प्लॉट कहाँ है?

Ans. दुकान के बगल में घर है और घर के बगल में प्लॉट है।

(x). यह उसी दिन की बात है जिस दिन अंकल ने अपने आगे वाला पार्ट मेरे मुँह में डाला था उसी दिन प्लॉट में ले जाने की बात कर रहे थे।

Court Q- हमें तो आप टीवी में (CCTV) नहीं दिखे प्लॉट की तरफ जाते हुए?

Ans. जब आप पूछ रहे थे की मैं दुकान से बाहर निकल कर क्या देख रही थी तब मैं प्लॉट की तरफ देख रही थी।

(xi). मैंने पुलिस वाली मैडम को नहीं बताया कि बूढ़े अंकल की बहू ने मुझे चीज़ के लिए लड़ते देखा था इसलिए चाटा मारा। मैंने कहा था कि बहू ने देख



12. PW-5 /Head Constable Rakesh was the MHC (M).

(A)(i). He testified that on 20.01.2026, P/SI *Manisha Yadav* had deposited one Pen Drive in sealed condition in the *Malkhana* regarding which he made entry at SI No. 4430 in Register No. 19 vide *Ex. PW-5/A* (OSR).

(ii). On 24.01.2026, the above said sealed exhibit of this case was handed over to HC *Ravi Rathi* along with FSL Form and RC No. 22/21/26 for depositing the same in FSL.

(iii). He also produced Register No. 21 containing RC No. 22/21/26 and acknowledgment receipt which HC *Ravi* handed over to me after depositing the sealed exhibit in FSL. Copy of RC is *Ex. PW-5/B* (OSR) and copy of acknowledgment receipt is *Ex. PW-5/C* (OSR).

(iv). He further stated that during the period, the exhibits remained in his custody, the same were not tampered.

(B). Under cross-examination on behalf of accused, he denied the suggestion that the Pen Drive was not in a sealed condition.

13. PW-6/Head Constable Ravi Rathi had deposited the exhibits in the FSL.

(A)(i). He testified that on 24.01.2026, he took the exhibits from the *malkhana* vide RC No. 22/21/26, *Ex. PW-5/B* and deposited



the same in FSL Rohini and handed over the acknowledgment, Ex. PW-5/C to the IO.

(ii). He stated that he had not tampered with the case property while the same was in his possession.

(B). He was not cross-examined on behalf of the accused.

14. PW-7/Sh. Samar Khan, AC In-charge, SNR Edatas Pvt. Ltd., had provided the CCTV footage to the IO.

(A). He stated that he was working as AC In-charge in the SNR Edatas Pvt. Ltd. He stated that he provided CCTV footage to the IO and Certificate under section 63 BSA in this regard was provided to Bharat Electronic Ltd who provided the same to the IO concerned. The Certificate is Ex. PW-7/A bearing his signature at point A. He stated that they had provided the CCTV footage from 23.12.2025 from 12:00 p.m., to 08:00 p.m., in one Pen Drive. They had not provided the hard disk of the CCTV footage.

(B). Under cross-examination on behalf of accused, he stated that they had not provided the Hard disk of the CCTV footage as the same was not demanded from them. He admitted the suggestion that they had not provided the above said Certificate directly to the IO. They were working as a Vendor.

15. PW-8/Sh. 'S' was the cousin brother of the victim.



(A). Her examination-in-chief reads as under:

(i). मैं अपने परिवार के साथ किराए के मकान में रहता हूँ और मुंडका में स्कूल शूज की फैक्ट्री में काम करता हूँ। मेरी मौसी 'S' की 5 साल पहले मौत हो गई थी और उनकी दो बेटियाँ मेरी दूसरी मौसी 'N' के साथ रहती हैं। बड़ी बेटी/victim का नाम 'Sh' है।

(ii). 23.12.2025 को मैं घर पर था। सरोजिनी आंटी मेरी मौसी 'N' के घर पर आईं। मैं अपनी मौसी 'N' के घर के बगल में रहता हूँ। आंटी ने मेरी मौसी 'N' की बड़ी बेटियों को बताया कि 'S' के साथ दुकान पर कुछ गलत हुआ है। मैंने यह बात मौसी 'N' को फोन करके बताई कि घर पर आ जाओ। उसके बाद मौसी 'N' शाम 5:00/6:00 बजे के आस-पास घर आईं तो उसने 'S' से पूछा तो उसने वही सब बताया जो उसके साथ हुआ था। मौसी ने सरोजिनी आंटी से भी पूछा था तो उसने भी वही बताया।

Q- 'Sh' ने क्या बताया था?

Ans. उसने बताया कि अंकल मेरा हाथ पकड़कर दुकान में ले जाते थे और अपना प्राइवेट पार्ट निकालकर उसके हाथ और मुँह में डालते थे (Witness is feeling hesitant in telling all this).

(iii). उसके बाद मेरी दोनों मौसी 'S' और 'N' बाकी गली की 2-3 औरतें उस दुकान पर गईं और वहाँ थोड़ा बहुत झगड़ा हुआ। उसके बाद मेरी मौसी 'S' ने 112 पर कॉल कर दिया। पुलिस आ गई और उस दुकान वाले अंकल को ले गईं।

(iv). सरोजिनी आंटी ने दोनों मौसी को सब कुछ बताया था।

(B). Following leading questions, with the permission of court, were asked by the learned Prosecutor from the witness



(i). मुझे नहीं पता कि सरोजिनी आंटी ने यह बताया था कि 'SH' को बूढ़े की दुकान पर मत जाने दिया करो।

(ii). मेरे सामने यह बात नहीं हुई कि सरोजिनी आंटी ने मेरी मौसी को बताया कि बूढ़े अंकल की बहू ने 'SH' विक्टिम को हाथ पकड़कर दुकान के अंदर ले जाते हुए देखा था।

(C). Her cross-examination conducted on behalf of the accused reads as under:

(i). मेरी मौसी 'N' का घर मेरे घर के सामने है। सरोजिनी आंटी भी हमारी गली में 2-3 घर छोड़कर रहती हैं। 'SH' की छोटी बहन का असली नाम मुझे नहीं पता पर उसको घर पर 'AP' कहते हैं। 'श' 4-5 साल से मौसी 'न' के घर रहती है। पहले मैं भी अपनी मौसी 'N' के साथ रहता था। जब से मेरी शादी हुई है तब से मैं अलग रहने लग गया हूँ।

(ii). बूढ़े अंकल की दुकान से मेरे घर से कोई भी सामान लेने नहीं जाता था। छोटे बच्चे चीज़ लेने जाते थे जो थोड़े समझदार थे जिनमें से एक 'Sh' और दूसरे 'AP' हैं और मेरी मौसी की लड़की 'SO' जाती थी। हमारा सामान तो गली से निकलते ही नुक़ड़ की दुकान से आ जाता है।

(iii). मैं भी थाने गया था 23 तारीख को। उसके बाद मैं 24 को भी थाने गया था। 23 तारीख को पुलिस ने मुझसे कोई पूछ-ताछ नहीं की। मैंने खुद से भी पुलिस को उस दिन कुछ नहीं बताया था। 24 तारीख को भी पुलिस ने मुझसे कोई पूछ-ताछ नहीं की। मुझसे पुलिस ने इस केस के सिलसिले में कोई बातचीत नहीं की। (Vol. मैं अपनी मौसी के साथ थाने जाता था और बाहर खड़ा रहता था। कभी-कभी अंदर भी चला जाता था देखने की क्या हो रहा



है।) मुझे ध्यान नहीं आ रहा है कि मैं 25 तारीख को भी थाने गया था कि नहीं (Vol. अगर छुट्टी रही होगी तो मैं मौसी के साथ गया होगा क्योंकि बगल में ही रहता हूँ)।

(iv). सरोजिनी आंटी मुझे नहीं मिली (Vol. मेरी बहन/cousin ने आवाज़ लगाकर मुझे बुलाया कि 'S' भाई यहाँ आ जाओ तो उसने मुझे बताया था)। जब मैं अपनी मौसी 'N' के घर पहुँचा तब सरोजिनी आंटी वहाँ नहीं थी। मैंने अपना फ़ोन नंबर पुलिस को नहीं दिया था। मेरे सामने सरोजिनी आंटी मौसी 'N' के घर पर नहीं गई थी। मैंने पुलिस को नहीं बताया कि मुझे सरोजिनी आंटी मिली थी और उसने सारी कहानी मेरे सामने मौसी 'N' को बताई थी। Confronted with his previous statement recorded u/s 180 BNSS from portion A to A-1 in Ex. PW-8/D-1 wherein it is so recorded. (Vol. मेरे से पुलिस ने कोई बातचीत नहीं की) ।

Q- क्या यह बात सही है की आपको नहीं पता की दूकान पर क्या हुआ था क्योंकि आप अपनी दोनों मौसी के साथ accused की दूकान पर नहीं गए थे ?

Ans. मैं बाद में गया था जब 100 नंबर पर कॉल हो चुकी थी ।

Court Q- आपने examination in chief एग्जामिनेशन इन चीफ में बताया कि 'सरोजिनी आंटी ने दोनों मौसी को सब कुछ बताया था' लेकिन आपने क्रॉस-एग्जामिनेशन में बताया कि 'सरोजिनी आंटी आपके सामने नहीं आईं'। कौन सी बात सही है?

Ans. घर के बाहर आग जलाकर बैठे हैं तो मौसी 'N' ने सरोजिनी आंटी को बुलाया था इसी बात पर बात करने के लिए तो मैं उठकर अंदर चला गया था क्योंकि वो सारी लेडीज़-लेडीज़ बात कर रही थी।

(v). एक मेरी मौसी 'N' थी, 'S' थी और सरोजिनी आंटी थी जब वो लोग आग जलाकर सेक रहे थे। यह कहना गलत है कि मैं एक इंटरेस्टेड विटनेस हूँ



और जानबूझ कर आज झूठी गवाही देने आया हूँ अपनी मौसी 'न' के कहने पर। (Vol. मैंने जो देखा वही बता रहा हूँ)।

(vi). यह कहना गलत है कि ना ही मैंने अपनी मौसी 'न' को फोन किया और ना ही उन्हें 'sh' के बारे में कुछ बताया। यह कहना गलत है कि आरोपी बेकसूर है और उसको झूठा फंसाया गया है। यह कहना गलत है कि 'Sh' ने मौसी को कुछ नहीं बताया। यह कहना भी गलत है कि ना ही मेरी cousin sister ने मुझे कुछ बताया। यह कहना गलत है कि मैं झूठी गवाही दी है।

16. PW-9/SI Pooja was the 1st IO of the case.

(A)(i). She testified that on 23.12.2025, on obtaining DD No. 0139-A, Ex. PW-9/F, ASI Narender went to the spot and met with *mausi* of the victim namely 'N' and 'S'. They told ASI Narender that victim was their *bhanji* and accused was also identified over there and all of them were taken to police station. Accused was identified by the victim in the police station. She recorded statement of the victim vide Ex. PW-3/A bearing her signature at point C. Thereafter, she was sent to hospital for her medical examination and same was conducted vide MLC, Ex. PW-3/C. Her counseling was also conducted from CWC. She further stated that she prepared the *rukka*, Ex. PW-9/A bearing her signature at point A and got the FIR registered.

(ii). She further stated that accused was arrested in the police station vide Ex. PW-9/B bearing her signature at point A. His personal search was conducted vide Ex. PW-9/C bearing her signature at point A. His disclosure statement was also recorded



vide Ex. PW-9/D bearing his signature at point A. Medical examination of accused was conducted through Head Constable Naresh. Accused was sent to JC.

(iii). She further stated that on the next day, statement of the victim under section 183 BNSS dated 26.12.2025, Ex. PW-4/A was got recorded.

(iv). She further stated that she requested PWD department for CCTV footage, same was provided and SI Manisha seized the same.

(v). She also stated that on 06.01.2026, she prepared the site plan vide Ex. PW-3/B bearing her signature at point C. She also prepared the questionnaire and victim answered the same vide Ex. PW-3/D and also collected the PCR form, Ex. A-6.

(B)(i). Under cross-examination on behalf of accused, she stated that the DD No. 139 was initially marked to SI Annu and since she proceeded on leave, the said DD entry was marked to her on 24.12.2025 at about 07:00 p.m. Prior thereto, she did not make any inquiry in this case. She stated that she had not recorded this fact anywhere in the CD that SI Annu proceeded on leave and that DD entry was marked to her. She denied the suggestion that DD entry was marked to her on 23.12.2025 or that she was deposing falsely to the effect that the above DD entry was marked to her on 24.12.2025 pursuant to the orders of senior officers.



(ii). She stated that she had recorded the statement of ASI *Narender*. She stated that if it is mentioned in her statement that on 23.12.2025, ASI *Narender* produced the accused, *Mausies* of victim and victim before her, then it is correct. Again said, 24.12.2025 को मेरे हवाले की गई थी बच्ची। She stated that the accused and victim's *mausies* were also produced before her on 24.12.2025 during evening time by ASI *Narender* and SI *Annu* because they both were looking after this case. She stated that she had not recorded the statement of SI *Annu* and ASI *Narender* to the effect that they had handed over to her the custody of accused and produced victim and witnesses before her. When her attention was drawn towards the statement of ASI *Narender* recorded under section 180 BNSS dated 25.12.2025 wherein it is mentioned that 'he had produced the ladies and victim before SI Pooja', she stated that she had recorded the said statement. Said Statement is marked as *Mark-9A*.

(iii). She stated that neither the victim nor her family members met her on 23.12.2025. The accused also not met her on 23.12.2025.

(iv). She stated that she had prepared the *Tehrir* at about 08:00 p.m., and handed over the same immediately to the Duty Officer for registration of FIR.

(v). She stated that she did not visit the alleged spot and house of victim on 24.12.2025. She stated that the *rukka*, Ex. PW-3/A



and *tehrir* are not in her handwriting. She voluntarily stated that however, the signatures at point C and A are her. She stated that she had signed the *Tehrir* at about 08:00 p.m. SI *Annu* had already written the statement of victim, *Ex. PW-3/A* and *Ex. PW-9/A* when it was handed over to her. She stated that she has not mentioned in the CD that *Ex. PW-3/A* and *Ex. PW-9/A* were prepared by SI *Annu* nor she recorded her statement in this regard. The time of giving the complaint/*darפש* *tehrir* was blank when it was handed over to me by SI *Annu*. She stated that she had taken the brief from SI *Annu* when she handed over to her the papers. She stated that she had not inquired from SI *Annu* as to why she had left the time of *Darפש* *Tehrir* blank. She voluntarily stated that it is usually mentioned when the *Tehrir* given to Duty Officer for registration of FIR. She stated that she had handed over the *Tehrir* to Duty Officer for registration of FIR. Inadvertently, she did not mention the time of *Darפש* *Tehrir* as she was interrogating the accused.

(vi). She stated that she had recorded the disclosure statement of accused on 24.12.2025. When her attention was drawn towards *Ex. PW-9/D* which is undated, she stated that she has not mentioned the date when the alleged disclosure statement was recorded.

(vii). She stated that before handing over the *rukka*/*Tehrir* to the Duty Officer, she had gone through the same. She admitted the suggestion that it is mentioned in the *rukka* that on 23.12.2025 after receipt of DD No. 139-A, ASI *Narender* brought the victim



and two ladies to the police station. She denied the suggestion that ASI *Narender* had handed over to her the custody of accused, victim and two ladies on 23.12.2025 at 08:45 p.m.. She voluntarily stated that the custody was handed over to SI *Annu*.

(viii). She stated that the *rukka* and *Tehrir* were handed over to her by SI *Annu* in the police station. On 24.12.2025, other than handing over the *rukka/tehrir* to Duty Officer, she prepared the arrest memo and disclosure statement of accused. She stated that she had also recorded the statement of police witnesses under section 180 BNSS. She had recorded the statement of *Zeenat* and *Mahipal*. (Objected to by learned Substitute PP for the State as the same are matter of record.)

(ix). She stated that the investigation of the present case remained with me till filing reply to the bail application. She voluntarily stated that मुझे इतना याद है कि उस दिन बेल लगी हुई थी।

(x). She stated that she went to the place of alleged incident on 06.01.2026 when she prepared the site plan along with victim and her family members. Again said, earlier also visited, if any CCTV Camera installed near or around the place of incident. However, she does not remember the date. She stated that she visited the spot for checking the CCTV Cameras 2-3 days after registration of FIR. She stated that she noticed one CCTV Camera installed in front of house of accused. However, she does not remember the exact location where it was installed. She stated that she cannot say if the CCTV installed outside a house.



On that day, she did not record any statement of any witness or any person nor she prepared any document.

(xi). She stated that she had sent an email to PWD to provide her the CCTV footage. She had not filed copy of that email along with the chargesheet. She does not remember the date when she got the CCTV footage from PWD. She stated that she personally received the footage in two Pen Drives. Again said, Constable had collected the same from PWD and in turn he handed over the same to her. She stated that she did not prepare any document when she got the CCTV footage in Pen Drive. She stated that she had sent the constable to PWD to collect the CCTV footage. She stated that she did not record statement of that Constable. Name of said Constable was *Karan*. The Pen Drives remained with her one day.

(xii). She stated that she was not sure if she was the IO of the present case even on 16.01.2026. She Voluntarily stated that 15 ya 16 तक मेरे पास इन्वेस्टीगेशन रही है पर मैं कन्फर्म नहीं हूँ।

(xiii). She stated that she had gone through the CCTV footage. She checked the CCTV footage on 14.01.2026. When she examined the victim, she had told about one incident only. She had examined the child on 06.01.2026. She had requested the PWD department to provide the CCTV of alleged date of incident dated 23.12.2025 from 12:00 noon to 08:00 p.m. Her attention was drawn towards the statement of victim/Ex. PW-3/A



wherein it is mentioned “अंकल ने पहले भी दो बार ऐसा मेरे साथ किया था” ।

(xiv). She stated that she had also gone through the MLC/Ex. PW-1/C when it was handed over to her. At this stage, attention of the witness is drawn towards the MLC wherein it is mentioned that ‘victim used to play in the street near her residence. The old man would regularly take her from there to his shop.....’ and the following question was asked:

Q- Why you did not collect the CCTV footage of the earlier days?

Ans. I had collected the CCTV footage of the last incident. मैंने सोचा की last घटना ले लेती हूँ इसलिए आखिरी घटना का ही लिया।

(xv). She denied the suggestion that she checked the CCTV footage of the earlier dates, but she intentionally withheld the same from the Hon’ble Court as the same were not in consonance with the statement of the victim and the alleged history recorded in the MLC.

(xvi). She stated that she had checked the CCTV footage from 12:00 noon to 08:00 p.m. When her attention was drawn towards Ex. PW-3/A wherein it is mentioned that ‘फिर मैं प्लॉट के बाहर से ही अपना हाथ छुड़ाकर घर वापस भाग कर आ गई’. In the said CCTV footage, the victim is not seen running from outside any plot after getting her hand released from any person or accused. The child had shown me the plot. It was near the shop. She stated that



she had not shown the said plot in the site plan/ *Ex. PW-3/B*. She stated that she had not confronted the victim or her family with the CCTV footage wherein the child is not seen running from outside any plot. She stated that she did not conduct any investigation regarding the statement of victim about the plot. She stated that the disclosure statement of accused, *Ex. PW-9/D* is in her own handwriting.

(xvii). When her attention was drawn towards *Ex. PW-9/D* wherein it is mentioned that 'उसका हाथ पकड़कर उसको पास वाले प्लॉट में ले जाने लगा तो वो हाथ छुड़ाकर भागने लगी जहाँ पर बाइक और गाड़ी खड़ी थी। फिर मैंने उसे जान से मारने की धम्की दी' । She stated that this is also not seen in the CCTV footage which she had collected from PWD department.

(xviii). She stated that she received the typed copy of FIR on the next day i.e. on 25.12.2025. She stated that she did not read over the contents of the *rukka/ Tehrir* to Duty Officer. She voluntarily stated that she had only handed over the *rukka* to him and he himself had typed the same. When her attention was drawn towards the FIR wherein time of *Darpesh Tehrir* is mentioned as 20:58 hrs, she stated that she did not conduct any investigation as to how the time of 20:58 hrs was got mentioned in the FIR. Again, her attention was drawn towards the FIR wherein in column No. 3 pertaining to occurrence of offence, the time is mentioned from 12:00 hrs to 12:00 hrs. She admitted the suggestion that in the *rukka* the time and date of *wakwa* (time of incident) is mentioned as 23.12.2025 समय दोपहर का समय. She



also admitted the suggestion that they usually write the time of *wakwa* as told by the victim or the party concerned. She stated that whenever she questioned the victim, her family members were present with her. She stated that she had recorded the statement of 'N' and 'S'. She admitted the suggestion that they both have stated the time of incident as *dopahar* in their statement recorded under section 180 BNSS.

(xix). She stated that she does not sure if the victim had gone to the shop of accused at around 12:00 noon. However, she denied the suggestion that victim did not go to the shop of accused at about 12:00 noon or that it is incorrect to suggest that she checked the CCTV footage and since the victim was not seen coming to the shop of accused at 12:00 noon that is why she deliberately suppressed and concealed this fact in the investigation.

Q- Can you tell as to how many times the victim had gone to the shop of accused?

Ans. कई बार आई-गई थी, मैंने गिनती नहीं की।

(xx). She stated that she did not mention this fact that “कई बार आई-गई थी, मैंने गिनती नहीं की” either in the bail reply or any other document prepared by her during investigation. She stated that she did not confront the victim or her family members with the CCTV footage that she had gone many times to the shop.



(xxi). She stated that she had briefed the Constable who accompanied the victim to the hospital about the facts of the case and instructed her to get the MLC done. She voluntarily stated that she had not specifically told her what tests were to be done. She stated that she had submitted on-line application to the hospital for victim's MLC. She stated that she has not placed on record copy of said application which she had submitted online. In that application also, she had not mentioned what test/examination needs to be done. She knows in POCSO cases what tests are to be done during medical examination of the victim. She received the MLC on 24.12.2025 during night time. After perusing the MLC, she came to know that victim had refused for her internal medical examination. She knew that victim's *mausi* had accompanied to the hospital and the MLC also bore thumb impression of *Mausi*. She did not examine the *mausies* of victim and victim about the refusal for internal medical examination and the alleged history recorded in CMO notes of MLC. She did not take the victim again to the hospital for her medical tests. She admitted the suggestion that she had recorded the statement of both the *mausies* on 25.12.2025. She also admitted that even at that time, she did not inquire from them/*mausies* about their refusal for medical examination and alleged history recorded in the MLC. She denied the suggestion that she knew on 23.12.2025 that nothing wrong has been done with the victim that is why the victim was not got medically examined on 23.12.2025 or that since she knew that nothing has happened with the victim that is why FIR was not registered on 23.12.2025.



(xxii). She denied the suggestion that after having examined the victim and her family members regarding the alleged history recorded in the MLC and their refusal for internal examination, it was revealed to her that nothing has happened with the victim and that is why they did not give consent for internal examination and she also intentionally not get the medical tests done or that she deliberately suppressed these facts in her investigation.

(xxiii). She stated that as per the chargesheet, she questioned the victim only once on 06.01.2026 during the period the investigation remained with her. She voluntarily stated that पूछ-ताछ तो कई बार की थी । She stated that she did not make any document or prepare any document or record any statement of victim whenever she did 'poochh-tachh'. When her attention was drawn towards examination report of victim, Ex. PW-3/D, after going through the same, she stated that the examination report is in her own handwriting. She stated that she herself had examined the victim vide the said report in the presence of her *Mausies*. When her attention was drawn towards the Q No. 23 of the said report wherein 'IO madam' is written and questioned who was the IO madam, she replied मैं खुद.

Q- Can you explain why you have mentioned 'IO madam' when you yourself had taken the victim to shop ?

Ans. Question गलत हो गया पर मेरा इरादा खुद के बारे में ही था।



(xxiv). She denied the suggestion that she was deposing falsely with regard to the fact that IO madam means she or that victim had not gone with her to the shop or that she was deliberately suppressing the name of the person with whom the victim allegedly gone to the shop.

(xxv). She stated that she had gone through *rukka* and *tehrir* before signing. She stated that she had come to know during investigation that on 23.12.2025, the victim, her *mausies* and accused were brought to the police station in the night of 23.12.2025. She stated that she had not investigated the fact that as to when the victim and her relatives left the police station on 23.12.2025 or when they were called again on 24.12.2025. The victim and her relatives were however sent to their house on 23.12.2025 but she cannot say who had asked them to leave the police station. The victim and her relatives met her in the evening of 24.12.2025.

Q- You have stated in your examination in chief that you recorded the statement of victim and also prepared *rukka* whereas in the cross-examination you stated that you had received from SI Annu, the statement of victim and *rukka* and you only signed the same. Which of the statement is correct?

Ans. The fact that SI Annu gave me the statement of victim and *rukka* and I only signed the same is the correct fact.

(xxvi). She stated that she had not visited the SGM Hospital on 24.12.2025. She had sent accused for medical examination



through Head Constable *Mahipal* whereas the victim was sent for medical examination through W/Constable *Jitin*. Head Constable *Mahipal* collected the MLC of the accused and handed over the same on 24.12.2025. She had gone through the MLC of the accused. She recorded the statement of Head Constable *Mahipal* on 24.12.2025. When statement of Head Constable *Mahipal* recorded under section 180 BNSS was shown to her, she stated that it is correct that she has written in the statement that “इसके बाद मैं आपके साथ मुकदमा हजा के मुल्जिम को लेकर संजय गांधी हॉस्पिटल, मंगोलपुरी पहुंची जहाँ पर मुलजिम के बाद करवाकर मेडिकल”. She was confronted with statement of Head Constable *Mahipal* recorded under section 180 BNSS/Ex. PW-9/D-2.

(xxvii). She admitted the suggestion that in the MLC of accused/Ex. A-4, it is written in the MLC that accused was brought by Head Constable *Naresh* in the hospital for his medical examination. She had not recorded any statement of Head Countable *Naresh*. She admitted the suggestion that it is mentioned in the MLC that accused was referred to Higher Center (Urology Department). The accused was not taken to the Higher Center (Urology Department) as advised. She stated that she had written an on-line application for conducting the MLC of accused to SGM Hospital. She had sought the medical examination of accused for potency test. When the accused was handed over to her by SI *Annu*, he had not left the police station till his medical examination. She stated that SI *Annu* had not briefed her that whether accused had left the police station before he was handed over to her. She stated that she had had not gone



through any document or DD entry suggesting that accused had left the police station after his apprehension on 23.12.2025.

Q- Did you write to the doctors of SGM Hospital for taking samples from the private part/penis of accused to corroborate the allegations of victim regarding oral sex?

Ans. I had not given in writing, however, I briefed the staff about the facts of the case.

(xxviii). She stated that she had briefed 2-3 police officials who had accompanied the accused to hospital for MLC, one was Head Constable *Mahipal* and another was Head Constable *Naresh* and does not remember the name of third police official. She denied the suggestion that she accompanied the accused to hospital along with Head Constable *Mahipal* and that is why it is written in the statement of Head Constable *Mahipal* that “इसके बाद मैं आपके साथ मुकदमा हजा के मुल्जिम को लेकर संजय गांधी हॉस्पिटल, मंगोलपुरी पहुंची जहाँ पर मुलजिम के बाद करवाकर मेडिकल”. She voluntarily stated that मैं हॉस्पिटल के बाहर से ही छोडकर आ गई थी. She denied the suggestion that she had not given any briefing to the staff for conducting the medical examination of accused or that now she was deliberately introducing the name of Head Constable *Naresh* since you were confronted with his name from the MLC in order to justify his name in the MLC. She stated that she had also received the MLC of the victim through W/Constable *Jitin*. She stated that she had gone through the same when she received. The time of medical examination of accused was 11:00 p.m., and the time of medical examination of victim is



11:10 p.m. She voluntarily stated that the building where the examination of victim was conducted was a different building from the building where medical examination of accused was conducted. The medical examination of victim was concluded, as mentioned in the MLC, at about 11:30 p.m. She stated that there is no opinion in the MLC of accused regarding the result of potency test. She voluntarily stated that she had made a phone call to the doctor and doctor told her that they had written on the MLC about the same at point A on the MLC of accused, *Ex. A-4*. She had not recorded the statement of doctor in this regard. She denied the suggestion that since the accused was innocent, therefore, proper and correct medical examination was not got done deliberately. When statement of ASI *Narender* recorded under section 180 BNSS was shown to her, she admitted having recorded the same. She admitted that in said statement the witness stated the fact pertaining to date 23.12.2025. She admitted the suggestion ASI *Narender* stated in his statement under section 180 BNSS that "*budhe uncle jiska naam Veerbhan ko ERV ke jariye thane pahunchaya..... aur mun ASI un dono ladies aur bachchi 'Sh' ko thane haja mein laya aur mun SI Pooja ke hawale kiya*". She denied the suggestion that she had deposed falsely regarding the fact that she had not met the victim or her relatives and accused on 23.12.2025. She voluntarily stated that *file mere pass thi to galti se mera hee naam chalta chala gaya*.

(xxix). She denied the suggestion that she illegally detained the accused for more than 24 hours for extraneous considerations or that the accused was innocent and due to this reason no FIR was



registered on 23.12.2025 and no action was taken against the accused till the night of 24.12.2025. She stated that SI *Manisha* had not asked her after taking over the investigation from me as to how the “*taarikh v waqt darpesh tehrir*” left blank.

(xxx). She stated that during investigation, she came to know that there was minor difference in the timings depicted in the CCTV footage and the actual time. She stated that PWD official has told her that there was a minor difference. She had not recorded his statement in this regard nor she tried to find out the discrepancy between the actual time and the time depicted in the CCTV footage. She admitted the suggestion that it is written in the point No. 6 that applicant is shown the footage and satisfied with the CCTV footage. She also admitted that it is written in the Certificate under section 63 of BSA/Ex. PW-7/A “nod-this site ID 27-007-01-20 Cameras are running 01 hour 12 minutes from the actual time.

Q- Have you conducted any investigation regarding the difference between the actual time and the time depicted in the CCTV footage?

Ans. No.

Court Q- Why?

Ans. It was not in my knowledge.

(xxxi). She stated that she had checked the mobile phone of ‘S’ and she found that ‘S’ had called his *mausi* ‘N’ on 23.12.2025. In



this regard, she did not record any statement. She had not collected the CDR of 'S' aur 'N' nor she had seized their mobile phones. She stated that she had checked their mobile phones in the police station. She stated that husband of 'N' and 'S' had not appeared before her during the investigation nor she contacted them. She denied the suggestion that husband of *Mausi* 'Su' namely *Deepak* had visited the police station on 23-24/01/2026 or that he along with *Mausies* of the victim were blackmailing the accused and his family members and they demanded Rs. 6 lacs for not pursuing the false case.

(xxxii). She stated that she does not remember the day when she contacted PW *Sarojini*. She stated that she recorded her statement in the police station via *whatsapp* video call and not in person. She stated that she visited her house, however, she was not available there. She stated that she had not mentioned the fact regarding her visit at her house and regarding recording her statement through *whatsapp* in the case diary. She stated that she had recorded her statement as per her narration and she had not added or subtracted in her statement on her own. She stated that she had read over her statement to her. She stated that she recorded in her statement that "जो ये सारी बातें मैंने 'S' को बता दी". She stated that she asked *mausies* of the victim to make video call from the house of *Sarojini* and accordingly they did the same.

(xxxiii). She denied the suggestion that she planted *Sarojini* as a false witness in collusion with the complainant and her family in



order to create false circumstances against the accused. She stated that she had recorded the statement of *Sarojini* under section 180 BNSS and she had not stated in her statement 'बच्ची को लेकर एक औरत गली में खड़ी थीं और उसको धमका रही थी। उस औरत ने मुझसे पूछा कि क्या तुम इस लड़की को जानती हो। मैंने बोला कि मैं जानती हूँ और यह मेरी गली में ही रहती है। हम बोले कि हम नहीं जानते वो बुद्धा कौन है तो उस औरत ने बोला कि वो लाला है, मेरा ससुर है और मैं उसकी बड़ी बहू हूँ। उस औरत ने बोला कि मैं तीन दिन से देख रही हूँ कि यह बच्ची दुकान पर आती है और बुद्धा फ्रिज के पीछे ले जाता है, मेरी बेटा भी सयानी है, उसके साथ भी गलत हो सकता है। उस औरत ने बताया कि वो दुकान से दो घर छोड़ कर रहती है। *Sarojini* stated in her statement under section 180 BNSS that दिनांक 23.12.2025 को मैं गली से जा रही थी जो गली में एक बूढ़े की दुकान है वहा पर मैंने देखा कि victim को बूढ़े की बहू मार रही थी। She stated that she had recorded the statement of *Sarojini* under section 180 BNSS and she had not stated in her statement "तब उस औरत ने बोला कि यह बच्ची एक बूढ़े की दुकान पर जाती है और वो बूढ़ा उसको फ्रिज के पीछे ले जाता है" She stated that she had recorded the statement of *Sarojini* under section 180 BNSS and she had not stated in her statement "उस औरत ने मुझे बोला कि आप इसके घर पर बता देना कि बच्ची को दुकान पर नहीं जाने दे। तब मैंने उसको बोला कि तुम खुद बता दो मैं नहीं बताऊँगी, तो उस औरत ने बोला कि अगर मैं बताऊँगी तो मेरे घर में पंगा हो जाएगा". She stated that she had recorded the statement of *Sarojini* under section 180 BNSS and she had not stated in her statement 'N' की बड़ी वाली बेटा को बताया था शायद से वो 16-17 साल की होगी, मुझे ठीक से नहीं पता। तो मैंने । 'N' की बेटा को बोला कि इस बच्ची को दुकान पर मत जाने दिया करो।"



(xxxiv). She stated that she had recorded the statement of 'N' under section 180 BNSS and she had not stated in her statement 'Sh' ने तीन दिन का ही रद्दा लगा रखा था और उसने पुलिस को भी यही बताया था कि बूढ़े अंकल तीन दिन से उसके साथ यह हरकत कर रहे हैं। She stated that she had recorded the statement of 'N' under section 180 BNSS and she had not stated in her statement 'Sh' हर जगह तीन दिन ही बता रही थी कि तीन दिन से बूढ़े अंकल उसके साथ गलत हरकत कर रहे हैं। मैंने पुलिस को बताया था कि बूढ़े अंकल तीन दिन से 'Sh' के साथ गलत हरकत कर रहे हैं। 'Sh' ने मुझे बताया था कि बूढ़े अंकल की बहू ने देख लिया था जब बूढ़े अंकल उसको फ्रिज के पीछे ले जा रहे थे। चीज़ वाली बात 'Sh' ने नहीं बताई थी। She stated that she had recorded the statement of 'N' under section 180 BNSS and she had not stated in her statement that 'फिर मैंने उसको 2 थप्पड़ लगाए तो उसने बताया कि तीन दिन से अंकल अपनी दुकान में उसको fridge के पीछे लेकर जाते हैं और पेंट खोलकर अपना private part उसके मुंह में डाल देते हैं। उन्होंने कहा कि मैंने कुछ नहीं किया और जब मैंने सख्ती से पूछा तो अंकल ने कहा कि मुझसे गलती हो गई मुझे माफ़ कर दो' .She stated that both *mausies* of the victim had met her on 24.12.2025 in the police station. She stated that she had inquired from them about the incident of 23.12.2025 with the victim. They had disclosed her the facts known to them on that day. She did not record their statements on that day, i.e. 24.12.2025 nor she mentioned the same in the case diary. She stated that the victim has told her in examination report *Ex. PW-3/D* that she had gone having 10 rupees to the shop of accused to purchase *Kurkure*. She has also told that the bahu of the accused had seen the victim in the shop and when it was asked what she had seen then the victim told that 'चीज़ के लिए लड़ रहे थे वही देखा



था' 'टेबल के पास लड़ते हुए देखा था वो दुकान में ही रखी है' 'पहले कभी नहीं किया अंकल ने पहली बार ऐसा किया' 'आंटी ने भैया को बताया'. She stated that she had not pressurized or influence the victim to state in a particular manner while recording her statement *Ex. PW-3/D*. She stated that she had recorded only one statement of the victim, i.e. *Ex. PW-3/D*. She stated that the victim had not stated in *Ex. PW-3/D* that "मैंने पुलिस को यह बताया था कि अंकल मुझे हाथ पकड़कर दुकान के अंदर लेकर गए थे rather it is stated that "toffee dikhkar bulaya tha". The victim had not stated in *Ex. PW-3/D* that "मैंने यह बात की कि मैं दोबारा टॉफी लेने गई थी दुकान पर, पुलिस को बताई थी" । The victim had not stated in *Ex. PW-3/D* that "Mam ने पूछा ही नहीं था कि क्या लेने गए थे, कुरकुरे लेने गए थे या नहीं?". But she stated in *Ex. PW-3/D* that she had gone to purchase *Kurkure*. The victim had stated in *Ex. PW-3/D* that "बहू ने मुझे चीज के लिए लड़ते देखा. The victim had not stated in *Ex. PW-3/D* that "मैंने वो प्लॉट भी पुलिस को दिखाया था। मैंने पुलिस को उस दिन की घटना और उससे पहले की भी सारी बातें बता दी थीं। मैंने पुलिस को बताया था कि अंकल ने मेरा हाथ पकड़ा और मुझे पास प्लॉट में लेकर जाने लगे, वहा बाइक और गाड़ी खड़ी हुई थी". Victim had stated in *Ex. PW-3/D* that "बूढ़े अंकल की बहू ने मुझे चीज के लिए लड़ते देखा था इसलिए चाटा मारा। मैंने कहा था कि बहू ने देख लिया था तो वो मुझे टेम्पो के पास लेकर गई थी और थप्पड़ मारा था". She stated that she had recorded the statement of 'S' under section 180 BNSS and he told her that one aunty met her and she told her about going of 'Sh' at accused's shop and other related facts pertaining to 'Sh'. She stated that she had examined Smt. Babita, daughter-in-law of accused on dated 06.01.2026 and 15.01.2026. Whatever she told her she had recorded in the examination report. The examination reports are shown to the



witness who admitted the same as recorded by her. The same are Ex. PW-9/DX and Ex. PW-9/DX-2. She admitted that during the investigation neither the victim nor Smt. Babita told her that Babita had seen any objectionable act in the shop on 23.12.2025. She also admitted that she had recorded the time of incident as 'दोपहर' as the same was told by both the mausies under section 180 BNSS. She stated that recorded statement of 'Su' under section 180 BNSS where it is not recorded that 'कि 23.12.2025 को 'S' और हमारे पड़ोस में रहने वाली एक आंटी जिसका नाम नहीं पता दोनों मुझे मिले, फिर आंटी ने मुझे कहा कि बेटा, 'Sh' को पीछे से बूढ़े की दुकान पर मत जाने दिया करो। मैंने पुलिस को यह भी बताया कि बूढ़े के बेटे की बहू ने 'Sh' का हाथ पकड़कर दुकान के अंदर लेकर जाते हुए देखा था। मैंने पुलिस को यह बात बताई थी कि बूढ़े अंकल 'Sh' को fridge के पीछे लेकर जाते थे और उसकी बहू ने भी देख लिया था".

(xxxv). She stated that she had visited the shop of accused during investigation. When one photo of the shop of the accused, Ex. PW-4/DA-1 was shown to her, she stated that this is the same shop and position of articles/goods is the same when she visited the shop. She stated that victim and her mausi also accompanied them regarding her visit at the shop of accused. She admitted the suggestion that there is no space behind the fridge rather it is shown in the photograph that there is a small space in front of the fridge. The shop was 6 x 8 feet approximately. She stated that she had gone through the history/CMO notes of the MLC of the victim/Ex. PW-3/C from point X to X-1. During investigation, the facts stated in the said history were not found to be true. She



stated that victim and her *mausi* were confronted with the CCTV footage. She had not noted down or recorded any statement of any witness regarding the fact that the CCTV footage is not depicting that the victim was not running after releasing her hands from the clutches of accused. However, she had put questions to *Smt. Babita* with regard to CCTV footage and recorded the same in her examination report. The CCTV footage was again played in the court and after watching the video, she stated that when the ladies seen while coming to the shop of accused, it is seen that victim is not along with them and they are not waiting in the *gali*. She stated that the victim was standing at the shop when some ladies came to the shop. It is also seen that the said ladies after reaching the shop started beating the accused immediately and they are not seen talking. She admitted the suggestion that the other family members including son, daughter in law, grandchildren and wife of the accused are also residing in the same building where the shop of accused is situated. She also admitted the suggestion that during investigation, no previous complaint or grievance with the accused in the locality. She denied the suggestion that the accused is innocent and has been falsely implicated in the present case or that she has not investigated the case fairly and properly or that investigation in the present case was dishonest and defected conducted against the accused in order to falsely implicate him or that no offence was made out against the accused due to this reason no statement was recorded on 23.12.2025 or that the family members of the victim were trying to extort money from accused and his family members when they were not obliged them in collusion and



connivance with her and other police officials false and fabricated case was lodged in the night of 24.12.2025 or that accused had not done any wrong act with the victim at any point of time or that it was unnatural and humanly impossible to carry out the alleged act in small shop which was situated in residential area in a busy *gali* where people are frequently passing through the shop or that she has deliberately suppressed the true and material which are favoring the accused or that she was deposing falsely.

Court Q- Did you read over and explained the recorded statement already *Ex. PW-3/D* to the child/victim?

Ans. Yes. In the presence of her *Mausi*, I had read over and explained all the questions as well as the answers to the victim.

Court Q- Whether you have mentioned in the statement that you have read over all the questions and answers to the victim in the presence of her *Mausi*?

Ans. No.

Court Q- Why?

Ans. I had obtained their thumb impressions on *Ex. PW-3/D*.

17. PW-10/PSI Manisha Yadav was the 2nd IO of the case.

(A). She stated that she received the file for further investigation. She stated that second statement under section 183 BNSS of the victim was got recorded on 16.01.2026. Thereafter, she recorded



the statement of victim in the court, she also collected CCTV footage in one Pen Drive vide Seizure Memo/Ex. PW-10/A bearing her signature at point A. She stated that's she also received Certificate under section 63 BSA in this regard. The Pen Drive was sent to FSL for examination vide documents Ex. PW-5/A to Ex. PW-5/C. Thereafter, she prepared the chargesheet and filed the same in the court.

(B)(i). Under cross-examination on behalf of accused, she stated that she received the file on 16.01.2026 from SI Pooja. She was briefed by SI Pooja on the next day about the investigation conducted by her. She had gone through the file including all the evidences. She stated that it was in her knowledge that first statement under section 183 BNSS was already recorded. The second statement under section 183 BNSS was recorded on the application of SHO concerned. The CCTV footage was collected by SI Pooja and only seized the same. She had gone through the CCTV footage. She voluntarily stated that she had gone through the timings before the incident. She admitted the suggestion that the victim visited the shop before the alleged incident. In this regard, she had not recorded any statement of any witness or conducted any investigation in this regard. She had not gone through the CCTV footage after the time of incident till the investigation remained with her. She denied the suggestion that she had gone through the complete CCTV footage in the Pen Drive during her investigation.



(ii). She denied the suggestion that she came to know during investigation that victim again visited the shop after the incident on the third time. She voluntarily stated that she had gone through the complete CCTV footage yesterday from the Pen Drive in police file and came to know that 'victim दुबारा दुकान के बाहर तक जाती है और देखकर वापस आ जाती है और उसके बाद उसकी दोनों मौसी और दो और लेडीज accused की दुकान पर जाती है और accused को मारने लग जाती है'. When Pen Drive placed in the police file is opened in the court. She stated that at around 19:33:20 hours victim is seen again going towards the shop of accused. She reached at the shop at 19:33:35 and she went back from the shop at around 19:33:46 and remained in front of Sweet's shop till at 19:34:00. At around 19:34:52 she again seen at the shop of accused and thereafter it appears that she is talking with the accused at around 19:35:05. It is also seen that at around 19:35:25 some ladies came at the shop of accused and started assaulting the accused. She stated that she had gone through the site plan/Ex. PW-3/B. She admitted the suggestion that length and width of the shop of accused is mentioned as 6 x 8 foot. During her investigation, she had not visited the shop of accused as well as house of the victim. She stated that she had also called Babita in the police station may be on 18.01.2026 and recorded her statement which is the part of the police file. She stated that she had not placed the same in the judicial file as her interrogation was already done by SI Pooja and it was similar in nature. I had gone through the rukka. It is correct that it is mentioned in the complaint that " फिर मैं प्लॉट के बाहर से हाथ छुड़ाकर घर वापस भाग कर आ गई" । It is correct that it is not seen in



the CCTV footage that “victim हाथ छुड़ाकर भाग रही है” । She admitted the suggestion that she had not investigated that any plot was existed or not, as mentioned in the complaint.

(iii). She admitted the suggestion that it is mentioned in the statement of victim recorded under section 180 BNSS dated 16.01.2026 that मुझे बस अपना नाम लिखना आता है। She admitted the suggestion that it is mentioned in the statement that “उन्होंने पहले भी मेरे साथ ऐसा किया है और काफी दिनों से मेरे साथ पहले ऐसा daily करते थे। मैं बाहर खेलती रहती थी” । She stated that she had not checked the CCTV footage of the previous days nor conducted any investigation in this regard. She voluntarily stated that she was PSI and had conducted the investigation as per the instructions of seniors. She stated that by Senior Officers she means SHO sir. She admitted the suggestion that it is mentioned in column No. 3 of FIR that occurrence of offence timings was 12:00 noon to 12:00 noon. She also admitted the suggestion that it is mentioned in the *Tehrir, Ex. PW-9/A* at point B ‘समय दोपहर का समय’. It is also mentioned in the statement of *mausi ‘N’, Ex. PW-3/D-1* word ‘*dopahar*’ regarding the incident.

(iv). She denied the suggestion that second supplementary statement of victim dated 16.01.2026 was deliberately manufactured by her and concocted by her regarding the time of incident. She stated that she had inquired from SI *Pooja* as to why she had not written the time of तारीख व वक्त दर पेश तहरीर’, she stated that she had forgotten the same. She stated that she had



not recorded her statement in this regard. She stated that she had not mentioned the same in my case diary.

(v). She admitted the suggestion that she had deliberately not placed on record the statement of accused's daughter in law *Babita* in the judicial file in order to suppress the true facts or that till the investigation remained with her, she had not fairly investigated the matter or that she had wrongly charge-sheeted the accused as he was innocent or that he was falsely implicated in the present case.

Court Q - Why you did not analyze the entire CCTV footage before filing the chargesheet?

Witness has gone silent. After some time, she stated, incident से पहले का देखा था।

18. PW-11/Smt. 'Su' was also the *mausi* of victim.

(A). Her examination-in-chief reads as under:

(i). मैं अपने परिवार के साथ किराए के मकान में रहती हूँ और घर में खाना बनाने का काम करती हूँ। मेरी मोबाइल इलेक्ट्रॉनिक्स की दुकान है। मेरी बहन 'N' के पास मेरी दूसरी बहन की दो बेटियाँ रहती हैं क्योंकि मेरी बहन की 5 साल पहले मौत हो गई थी। मेरी बहन की बड़ी बेटी का नाम विक्टिम 'Sh' है जो 9 साल की है। 'Sh' घर के पास ही ट्यूशन पढ़ने जाती है।

(ii). 23.12.2025 को मैं और मेरी बहन 'N' काम पर गए हुए थे। मैं अलग काम करती हूँ और 'N' अलग काम करती है लेकिन हम एक ही ब्लॉक में



राजेंद्र नगर में काम करते हैं। उस दिन आंटी (सरोजिनी) जोकी मुझे नाम बाद में पता लगा, ने हमारे घर पर आकर मेरी बहन 'N' की बेटी 'K' को बताया कि 'Sh' को बूढ़े अंकल (वीरभान) की दुकान पर मत जाने दिया करो क्योंकि अंकल उसके साथ गलत काम करते हैं। 'S' मेरी बहन का लड़का है वो भी उस दिन सामने वाले घर में ही था क्योंकि वो वही पर रहता है। 'S' को 'K' ने बताया कि 'Sh' /विक्टिम के साथ कुछ गलत हुआ है और 'N' को घर भेज दो। उसके बाद 'S' ने 'N' को फ़ोन किया और 'N' ने मुझे फ़ोन किया तो हम दोनों घर चले गए। हम घर 6:00/6:30 बजे पहुँच गए थे। पहले हमने 'Sh' /विक्टिम से पूछा तो वो कुछ बता नहीं रही थी। उसके बाद जब हमने उसको दाता तो फिर उसने बताया कि "मैं बूढ़े अंकल की दुकान पर जाती थी और वो मुझे चीज़ का लालच देकर फ़्रिज के पीछे ले जाते थे। मुझे उनकी बहू ने भी देख लिया था। उसने बताया कि बूढ़े अंकल ने अपनी बाथरूम वाली जगह उसके मुँह में डाली थी। Victim SH ने हमें बताया कि उनकी बहू ने उसको थप्पड़ मारा और कहाँ की यहाँ पर मत आया करो"।

(iii). उसके बाद हमने 'श' को पहले दुकान पर भेजा और फिर पीछे-पीछे कुछ समय बाद हम चले गए। हमने बूढ़े अंकल से दुकान पर जाकर पूछा तो पहले तो उसने मना कर दिया फिर जब हमारी हाथ-पाई हो गई तो फिर उसने हाथ जोड़कर हमसे माफ़ी मांगी। वो कह रहे थे कि पता नहीं मेरे दिमाग में क्या हो गया, मुझे माफ़ कर दो। फिर हमने 112 पर कॉल किया और फिर वहां पर पुलिस आ गई और वो बूढ़े अंकल को पुलिस स्टेशन ले गए।

(B). Her cross-examination on behalf of accused reads as under:

(i). मेरे पति निलौठी में मोबाइल रिपेयरिंग का काम करते हैं। जिस दिन की यह घटना है उस दिन वो दुकान पर थे और नॉर्मली वो रात को 10:30 बजे घर पर आते हैं। मैंने उस दिन अपने पति को घटना के बारे में नहीं बताया था,



अगले दिन बताया था। अगले दिन मैंने अपने पति को शाम के 4:00/5:00 बजे घटना के बारे में बताया था। मेरे पति थाने में 2 मिनट के लिए आए थे और फिर चले गए थे कि यह तुम्हारा मामला है तुम ही निपटो।

(ii). 23 तारीख को मैं, मेरी बहन के बेटे 'S' और 'R', मेरी बहन 'N', गली की एक लेडी मंजू और 'Sh'/विक्टिम थाने गए थे। 23 तारीख को जो भी घटना हुई थी हम सबने पुलिस को बता दी थी। हमने थाने में एक सर को सारी घटना बताई थी। उस दिन पूजा मैडम नहीं थीं। हम थाने में रात के करीब 1:30/2:00 बजे तक रहे। थाने में 2-3 पुलिस वाले और थे लेकिन सर ने ही लिखा-पढ़ी की थी।

(iii). अगले दिन हम सब जो रात को गए थे वही सुबह 10:00 बजे फिर थाने गए थे। उस दिन हमें पूरा दिन थाने में लग गया था और हम रात को 12:00/12:30 बजे घर वापस आए थे। मेरा बयान पूजा मैडम ने लिखा था 24 तारीख को। मुझे याद नहीं कि मेरा बयान पढ़ के बताया था कि नहीं पर 'Sh'/victim का पढ़ के बताया था।

(iv). मैं और 'N' एक साथ ही घर आए थे 6:00/6:30 बजे। उस समय घर पर बच्चा और 'Sh'/विक्टिम थी। मेरे घर आने से पहले की बातें मैंने आज जो भी बताई उस समय मैं घर पर मौजूद नहीं थी और वो बातें मेरे सामने नहीं हुईं। मुझे ये सब बातें 'K' ने बताई थीं और घर आने के बाद 'श' ने भी बताई थीं। हम घर से लगभग 1 घंटे बाद दुकान पर गए थे। तब तक हम घर पर ही थे। इस 1 घंटे के दौरान कोई नहीं आया था हम लोग आपसे मैं ही बातचीत कर रहे थे। बूढ़े अंकल की दुकान पर मैं, मेरी बहन 'N' और गली की एक-दो लेडीज़ गई थीं।



(v). मेरे से IO ने नहीं पूछा था कि घर जाने से पहले की बातें मुझे 'K' ने बताई थीं इसलिए मेरे बयान में यह बात नहीं लिखी। मैंने अपनी तरफ से भी यह बात नहीं बताई थी क्योंकि मुझसे जो पूछा गया मैंने वही बताया।

(vi). मैंने पुलिस को बताया था कि 23.12.2025 को 'SH' और हमारे पड़ोस में रहने वाली एक आंटी जिसका नाम नहीं पता दोनों मुझे मिले, फिर आंटी ने मुझे कहा कि बेटा, 'Sh' को पीछे से बूढ़े की दुकान पर मत जाने दिया करो। मैंने पुलिस को यह भी बताया कि बूढ़े के बेटे की बहू ने 'SH' का हाथ पकड़कर दुकान के अंदर लेकर जाते हुए देखा था"। मैंने यह घटना 'दोपहर' की है, नहीं बताया था। Confronted with her statement u/s 180 BNSS Ex. PW-11/D-1 where the word 'दोपहर' is written. (Vol. दोपहर का हमारा कुछ भी नहीं था).

(vii). मैंने पुलिस को यह बात बताई थी कि बूढ़े अंकल 'श' को फ्रिज के पीछे लेकर जाते थे और उसकी बहू ने भी देख लिया था। Confronted with her statement u/s 180 BNSS Ex. PW-11/D-1 where it is not so recorded.

(viii). जब हमें सारी कहानी पता चली तब हम बहुत गुस्से में थे (Vol. गुस्सा तो आएगा ही)। हमने 'Sh' को दुबारा दुकान पर इसलिए भेजा था देखने के लिए कि बूढ़े अंकल उसके साथ दुबारा छेड़खानी करते हैं कि नहीं। हम 'SH' से लगभग 20 कदम पीछे थे। जब दुबारा 'Sh' दुकान पर गई तो उसको बूढ़े अंकल ने हाथ से इशारा करके भगा दिया।

(ix). हमने देखा था बूढ़े uncle/आरोपी को इशारा करते हुए। 'SH' ने हमें आकर बताया कि चाचा ने उसको भगा दिया है।

Q- 'Sh' कितने देर में वापस आ गई थी?



Ans. बस गई थी और आ गई थी।

(x). उसके बाद हम 'Sh' को साथ में लेकर दुकान पर गए थे। (Vol. साथ में ही थी।)

(xi). विक्टिम ने मुझे उस दिन (alleged incident wale din) नहीं बताया था कि वो उस दिन दुकान पर कितनी बार गई थी। (Vol. अगले दिन बताया था कि 2-3 बार गई थी)। यह बात 'Sh' /विक्टिम ने मेरी बहन 'N' को बताई थी। यह बात मेरी बहन 'N' ने मुझे फोन पर बताई थी फिर जब मैंने 'Sh' से पूछा अगले दिन तो उसने मुझे भी बताया था। यह बात मैंने पुलिस को बताई थी। (Vol. 'Sh' ने भी बताई थी) ।

(xii). मैं विक्टिम 'Sh' के साथ उसका मेडिकल करवाने हॉस्पिटल नहीं गई थी। (Vol. मेरी बहन 'N' और 'S' गए थे)। यह कहना गलत है कि मैं जान-बूझकर अपने स्टेटमेंट को इम्प्रूव कर रही हूँ। यह कहना गलत है कि IO/SI पूजा की गवाही और IO/SI मनीषा की गवाही में यह आया वीडियो देखकर कि 'Sh' तीसरी बार भी दुकान पर गई थी और उसका false एक्सप्लेनेशन create करने के लिए और lacuna भरने के लिए IOs के कहने पर मैंने अपना स्टेटमेंट कोर्ट में इम्प्रूव किया है और मैं इस पॉइंट पर झूठ बोल रही हूँ। यह कहना गलत है कि मैं झूठ बोल रही हूँ कि "हमने 'Sh' को दुबारा दुकान पर इसलिए भेजा था देखने के लिए कि बूढ़े अंकल उसके साथ दुबारा छेड़खानी करते हैं कि नहीं। हम 'Sh' से लगभग 20 कदम पीछे थे। जब दुबारा 'Sh' दुकान पर गई तो उसको बूढ़े uncle ने हाथ से इशारा करके भगा दिया। हमने देखा था बूढ़े uncle/accused को इशारा करते हुए। 'Sh' ने हमें आकर बताया कि uncle ने उसको भगा दिया है।" (Vol.. लेकिन यह बात तो सच है)।

(xiii). यह कहना गलत है कि 'Sh' ने मुझे कुछ भी नहीं बताया था और ऐसा कुछ भी गलत उसके साथ दुकान पर नहीं हुआ था।



(xiv). 'Sh' के 2-3 बार बयान हुए, कई बार मेरे सामने और कई बार मेरे बिना भी हुए। उस दिन के बाद भी 'Sh' 2-3 बार थाने गई थी, मेरी बहन 'N' लेकर गई थी। मैं थोड़ी देर बाद गई थी। हम 25 तारीख को भी गए थे। उसके बाद भी हम कई बार थाने गए थे पर मुझे तारीख याद नहीं है। मुझे, मेरी बहन और 'Sh' को पुलिस ने कभी CCTV फुटेज नहीं दिखाया।

(xv). 'Sh' ने पुलिस को बताया था कि बूढ़े अंकल हाथ पकड़कर उसको प्लॉट में लेकर जाने लगे और 'Sh' प्लॉट के बाहर से ही अपना हाथ छुड़ाकर भाग गई थी। यह कहना गलत है कि आरोपी को इस केस में झूठा फंसाया गया है। यह कहना गलत है कि सरोजिनी आंटी ने हमें ऐसा कुछ भी नहीं बताया जो मैंने आज कोर्ट में बताया है और ना ही उसने 'K' को कुछ बताया। यह कहना गलत है कि मैं झूठी गवाही दे रही हूँ।

19. PW-12/Head Constable Nema Ram was the Duty Officer.

(A). He testified that on 24.12.2025, she received the *rukka* at 20:58 hrs and he registered the present FIR on the basis of *rukka* at about 21:08 hrs. He made the endorsement on the *rukka* which is *Ex. A-3* bearing her signature at point B. The copy of FIR is *Ex. PW-12/A* (OSR) bearing his signature at point A. He stated that he had also provided the Certificate under section 63 BSA which is *Ex. A-2* bearing his signature at point A.

(B)(i). Under cross-examination on behalf of accused, he stated that he does not make any addition or alteration in the *rukka* and whatever is written in the *rukka*, he registered FIR on the basis of the same. The DD No. 138-A is the *kayami* DD entry recorded



before registration of FIR. He admitted the suggestion that the column '*taarikh v waqt darpesh tehrir*' was blank. He admitted the suggestion that he had not left the "*taarikh v waqt darpesh tehrir*" in the typed/computer generated FIR blank. He denied the suggestion that he had given false Certificate under section 63(5) BSA. He stated that he used to type himself after looking on the *rukka*. He stated that he had not asked from the IO about the blank space.

(ii). He denied the suggestion that he had deliberately improved in the FIR in order to suppress the true facts or to fulfill the glaring lacuna in the *rukka* or that he had not received *rukka* at the time and manner as deposed above.

COURT WITNESSES:

20. **Dr. Radha Sumal had medically examined the victim.**

(A). Her examination reads as under:

Q- Who Exactly provided you the alleged history of the sexual assault that you documented in the MLC?

Ans. Victim 'Sh'.

Q- Why did you not document the name or other identifying details of the person who provided you with the alleged history of sexual assault?

Ans. I have no idea.



(B)(i). Under cross-examination on behalf of State, she admitted the suggestion that victim was brought to the hospital on 24.12.2025 and her examination was done at 11:10 p.m., and she was brought to the hospital by W/Constable *Jitin*. She also admitted the suggestion that alleged history from point X to X-1 is in her handwriting in the MLC, *Ex. PW-3/C*.

(ii). She stated that the victim denied for her internal medical examination. She stated that they undergo the training of POCSO cases.

(C)(i). Under cross-examination on behalf of accused, she stated that *mausi* of the victim namely 'N' had accompanied her in the hospital and she had put her thumb impression on the MLC at point Y. She stated that the victim's *mausi* had denied for the internal medical examination of the child victim. The handwriting in Hindi language is in her handwriting from point B to B-1 and the same is appended with the thumb impressions of victim and her *mausi*.

Court Q- Have you taken the mouth swab of the victim?

Ans. Victim had denied for the same and her *mausi* had also denied for the same (Vol. *kaafi time ho chuka tha*). I have not mentioned this fact in the MLC.

(ii). She stated that she had written the age of the child as 9 years in the MLC.

21. CW-1/Smt Babita was the daughter-in-law of the accused.

(A). During her examination, the Pen Drive, containing the CCTV footage, was played in the court. After viewing the same, at 17:30:54, she identified the lady in blue *dupatta* as herself.

Q- आप कहाँ जा रहे थे?

Ans. मैं सुनील डेयरी जा रही थी दूध लेने।

Q- At around 17:32:18, आप रुक क्यों गए थे?

Ans. मैं अपनी बेटी का मैसेज चेक कर रही थी उसको कॉलेज से आना था, वो कॉलेज से निकलती है तो मैसेज करती है।

At around 17:33:04 - जो बच्ची दिख रही है वो वही बच्ची है जो मेरे पापा (accused) की दुकान से चीज़ ले रही थी।

Q- At around 17:33:18, आप बच्ची को टेम्पो के पीछे क्यों लेकर गए थे?

Ans. बच्ची ने मुझे आवाज़ लगाई 'आंटी' तो मैंने पीछे पलट कर देखा, मुझे लगा कि शायद मुझे आवाज़ नहीं लगाई तो मैं आगे चलने लगी। फिर उसने मुझे दोबारा आवाज़ लगाई तो मैंने उसको बोला कि टेम्पो के पीछे आ जा। तो बच्ची ने बोला तब हम टेम्पो के पीछे चले गए तो बच्ची ने बोला कि आंटी मेरे घर पर मत जाना। मैंने बोला कि मैं तेरे घर क्यों जाऊँगी, मुझे तो तेरा घर नहीं पता। मैं अंकल से उधार माँग रही थी और आप देख रहे थे तो आप मेरे घर जाकर मत बताना। मैंने बोला कि उधार क्यों माँग रही थी, अंकल से क्यों लड़ रही थी, मैं तेरे घर जाकर तेरी मम्मी को बताऊँगी। तो बच्ची ने बोला कि मेरी मम्मी मर गई है तो मैंने बोला कि तेरे पापा को बताऊँगी तो उसने कहा कि मेरे



पापा भी नहीं हैं। मुझे लगा कि बच्ची उधार के लिए इतने बड़े झूठ बोल रही है तो मैंने कहा कि बता तेरा घर कहा है तो बच्ची ने इशारा करके बताया कि मेरा घर इस तरफ है तो मैं उस बच्ची के साथ उस गली की तरफ चली गई उसमें अंधेरा था, बच्ची ने मुझे घर जाने से रोक दिया, मैंने बच्ची को वही छोड़ दिया। उसने कहा कि मेरी मौसी को मत बताना मेरी मौसी मुझे डांटेगी। उसने बोला कि मैं दोबारा दुकान पर नहीं आऊंगी। मैंने कहा कि अगर दोबारा आएगी तो तेरी मौसी को बता दूंगी। तभी पास से एक लेडी गुजर रही थी, उसने पूछा कि क्यों डांट रही हो बच्ची को तो मैंने उसे बोला कि यह बच्ची मेरे ससुर की दुकान पर उधार सामान लेने आती है इसी वजह से मैं उसको डांट रही हूँ, उस लेडी ने भी उस बच्ची को डांटा की उधार सामान नहीं लेते। उस लेडी ने उस बच्ची से पूछा कि कहाँ रहती है तो बच्ची ने उसे इशारा करके बताया तो लेडी ने बोला कि भाग यहाँ से। फिर वो लेडी भी चली गई और वो बच्ची भी चली गई। मैं सुनील डेयरी दूध लेने चली गई।

Q- आपकी अपने ससुर से बातचीत है?

Ans. हाँ। उनकी दूकान से सामान भी लेने जाते हैं। मम्मी के पास भी जाते हैं।

सामन के पैसे साथ के साथ दे देते हैं।

Q- अगर आपने देखा कि बच्ची उधार मांग रही थी और आपके ससुर (accused) उसको डाँट रहे थे तो आप उसी वक्त दूकान पर क्यों नहीं गए?

Ans. इतनी बड़ी बात नहीं थी।

Q- जब इतनी बड़ी बात नहीं थी तो आप बच्ची को टेम्पो के पीछे क्यों ले गए थे?

Ans. बच्ची ने मुझे आवाज मारी थी, शायद वो डर गई थी मुझे देखकर कि मैं उसके घर न चली जाऊँ।



Q- क्या बच्ची आपको जानती थी?

Ans. मुझे नहीं पता ।

Q- क्या आपके ससुर की दूकान से कोई और भी उधार सामान लेता है?

Ans. आस-पड़ोस के लोग लेते होंगे. (Vol. में अलग रहती हूँ).

Q- आपके कितने बच्चे हैं ?

Ans. मेरी दो बेटियां हैं ।

(B). Her cross-examination conducted on behalf of State reads as under:

(i). मुझे नहीं पता कि जो लेडी मिली थी उसका नाम सरोजिनी है। यह कहना सही है कि बच्ची मेरे ससुर की दुकान पर थी उस दिन। जब मैं दुकान के सामने से निकल रही थी तब मेरे ससुर (accused) कुर्सी पर बैठे हुए थे। यह कहना गलत है कि वो कुर्सी पर बैठे हुए थे। मेरे ससुर नॉर्मल पैंट, टी-शर्ट, शर्ट पहनते हैं धोती नहीं पहनते। यह कहना गलत है कि मुझे दुकान में मेरे ससुर की activities suspicious लगीं इसलिए मैं दुकान के just बाद रुक गई और इसलिए मैंने बच्ची को टेम्पो के पीछे ले जाकर डांटा और कहाँ की हमारी दुकान पर मत आया कर। मैं इस बच्ची को पहले से नहीं जानती। मुझे नहीं पता कि यह केस क्यों करवा दिया गया।

(C). Cross-examination conducted on behalf accused reads as under:

(i). आंटी की उम्र 70-80 साल की होगी। बच्ची स्पीड से अपने घर की तरफ भागी थी, वो आंटी धीरे-धीरे चल रही थी, मैं सुनील डेयरी पर दूध लेने चली गई।



STATEMENT OF ACCUSED UNDER SCETION 351 BNSS:

22. After completion of prosecution evidence, statement of accused under section 351 BNSS was recorded to afford him an opportunity to explain the incriminating circumstances appearing against him in evidence. He denied the allegations and pleaded false implication. He examined two witnesses in his defence.

DEFENCE EVIDENCE:

23. DW-1/DG was the victim's maternal uncle.

(A). His examination-in-chief reads as under:

(i). मैं इलेक्ट्रॉनिक्स में mobile and LED रिपेयर करता हूँ और खुद का फाइनेंस का भी काम करता हूँ। मैंने शॉप रेंट पर ली हुई है कुंवर सिंह नगर में। मैं मोबाइल use करता हूँ। मेरा मोबाइल नंबर 9250060026 है। यह Airtel का है और SIM मेरे नाम पर है।

(ii). 'Sh'/victim मेरी भांजी है यानि मेरी साली की बेटी है। यह बच्ची/विक्टिम मेरी साली 'N' के साथ रहती है (Vol. 'N' के साथ मेरी बातचीत कम है)। 'Sh' की मम्मी नहीं है, उनकी डेथ हो चुकी है और 'SH' के पापा ने बच्चों को छोड़ दिया है इसीलिए 'Sh' 'N' के पास रहती है (Vol. दो बच्चे {'SH' के दो भाई-बहन} मैं भी पाल रहा हूँ) जिस दिन की यह घटना (alleged) है उसी दिन मुझे पता चल गया था. उस दिन 23 दिसंबर थी पिछले साल (2025). मेरी वाइफ 'SU' ने मुझे बताया था। मुझे 7:30/8:00 बजे बजे के आस-पास मेरी पत्नी 'SU' की कॉल आई थी। मैं 23 तारीख को इस केस के सिलसिले में थाने भी गया था। मैं थाने में 2 से 5 मिनट तक ही रहा था। मैं



उसके बाद दुबारा थाने नहीं गया। थाने में मेरी पत्नी 'SU', 'N' वगेहरा थे (Vol. यह दूसरे कमरे में बैठे हुए थे, मैंने ज्यादा देखा नहीं)।

Q- आप इतनी जल्दी थाने से वापस क्यों आ गए?

Ans. जैसा मैंने आपको बताया कि मेरी कम्युनिकेशन बहुत कम है 'N' से। मैं अपनी दुकान 10:00 बजे बंद करता हूँ, मैं दुकान बंद करके घर आ गया, घर पर ताला लगा था तब मुझे याद आया कि वो लोग थाने गए हैं तो मैं भी थाने चला गया पता करने के लिए कि मेरी पत्नी 'SU' कब तक घर वापस आएगी।

(iii). 'Sh' मेरे घर आती-जाती है क्योंकि वो मेरी बेटी 'TG' की हम उमर है। 'Sh' को मैं अपने बेटी जैसा ही समझता हूँ। मैं उसके सुख-दुख की चिंता करता हूँ।

Q- आप 24 तारीख को थाने क्यों नहीं गए?

Ans. मेरा 'N' का कोई मतलब नहीं है और मेरी पत्नी 'SU' तो साथ जा ही रही थी 'N' के और 'Sh' के तो इसलिए मैं थाने नहीं गया।

(iv). मुझे नहीं पता 24 तारीख को ये लोग थाने कब गए थे। मैं जब 24 तारीख को दुकान बंद करके 10:00 बजे घर पर आया तो ये लोग घर पर ही थे।

Q- यह लोग कौन?

Ans. बच्चे घर में, पत्नी का मुझे ध्यान नहीं है। पत्नी कब घर आई मुझे नहीं पता।

(v). मैंने अपनी पत्नी के साथ case discuss किया था।

(vi). मैं अपने साथ आज अपना फोन लेकर आया हूँ।



(vii). मेरी accused के बेटे से थाने के गेट पर बातचीत हुई थी (Vol. उसने मेरे पर पकड़े थे और बोला था की हमारी इन्सुलट हो जायेगी)। मेरी फ़ोन पर कोई बातचीत नहीं हुई। मेरे पास accused की फ़ॉमिली के किसी का भी नंबर नहीं है।

(viii). During course of the examination, he also handed over his mobile phone to the learned defence counsel and stated that 'आप फोन चेक कर लो, मुझे ज्यादा फोन चलाना नहीं आता है'। Learned defence counsel stated that when he searched the mobile number of accused's elder son *Satish*, he found that his number saved in the Phone-Book of witness's mobile phone as 'POXOO'. The said mobile number is 9250547054। (Vol. मैंने यह नंबर लेकर शायद save किया था जब यह लोग बोल रहे थे कि हमारी बेइज्जती हो जाएगी हम मर जाएंगे तो मैंने सोचा कि बुजुर्ग आदमी है तो इसलिए बात कर लेता हूं। मैंने इस नंबर पर कोई फोन नहीं किया, फोन आया जरूर था पर मैंने फोन रिसीव नहीं किया।

(B). He had also put him questions which may be asked in cross-examination with leave of the court. It reads as under:

(i). Learned defence counsel drew his attention drawn towards print out of Call Details taken from True Caller App and the following questions are asked: -

Q- क्या at point A पर फोटोग्राफ आपका है ?

Ans हाँ। फोटोग्राफ मेरा है।

Q- क्या at point B पर जो नंबर लिखा है वो आपका है ?



Ans. हाँ।

The said Call details is Ex. DW-1/A.

(ii). 24.12.2025 ko at 10:49 AM, 11:58 AM, 12:30 PM और 1:38 अपराह्न को मैंने कॉल किया था कि यह नंबर मेरे फोन में 'पॉक्सू' के नाम से सेव है। (Vol. 24 तारीख को सुबह 8:30 बजे मेरे पास इस नंबर से कॉल आई थी पर मैं सोया हुआ था तो मैंने call receive नहीं किया। जब मैंने हमें प्रति कॉल नंबर दिया कि थी उस वक्त मैं थाने में ही मौजूद था)।

Court Q- आपने पहले बताया कि आप सिर्फ 23 तारीख को रात में थाने गए थे उसके बाद कभी नहीं गए और अभी आप कह रहे हैं कि 24 तारीख को जब आपने कॉल किया तो आप थाने में ही थे। आपने ये बात पहले कोर्ट को क्यों नहीं बताई?

Ans. मैं इसके लिए माफी चाहता हूँ। उस वक्त मुझे ध्यान नहीं रहा पर जैसे ही कॉल दिखाए मुझे याद आ गया।

(iii). मैं 24 तारीख को 2-3 घंटे थाने में रहा। मैं शाम के वक्त ठाणे से आया था।

Court Q- आपने नंबर 'POXOO' के नाम से क्यों सेव किया ?

Ans. न्यूज़ वगैरा देखते हैं की बच्चों के साथ कुछ होता है तो उसको पोक्सो बोलते हैं इसीलिए पोक्सो के नाम से सेव किया। मुझे उनका नाम नहीं पता था जिनका नंबर था इसलिए POXOO के नाम से सेव किया।

मैंने जब फोन किया तब मैंने उनसे पूछा नहीं कि उनका नाम क्या है।

(iv). ये कहना गलत है कि 23.12.2025 को थाने में मैंने सतीश को अपना फोन नंबर दिया था और कहा था कि 6 लाख का इंतजाम कर लो अगर हो



जाए तो मुझे फोन कर लेना, मैं केस रफा-दफा करवा दूंगा (Vol. मेरे से ऐसे कोई बात नहीं हुई)।

(v). ये कहना गलत है कि जब सतीश ने पैसे देने से मना कर दिया और कहा कि उसके पापा ने कोई गलत काम नहीं किया है तो मैंने दोपहर तक पैसे की डिमांड की जब डिमांड पूरी नहीं हुई तो शाम को केस करवा दिया। (Vol. ऐसी मेरी कोई बात नहीं हुई. अगर ऐसी कोई बात होती तो मैं थाने से फोन क्यों करता)। ये कहना गलत है कि मैं 23 तारीख को देर रात थाने में था। ये कहना गलत है कि मैं 24 तारीख को सुबह से लेकर रात तक थाने में था। यह कहना गलत है कि मैं नंबर 'पोक्सो' के नाम से इसीलिए सेव किया था क्योंकि मैं पैसे ऐंठना चाहता था।

(C). His cross-examination conducted on behalf of State reads as under:

(i). मुझे फोन करके मेरी पत्नी ने बताया था कि 'Sh' के साथ हादसा हो गया था, उसके साथ किसी ने बदतमीजी की थी। मेरी पत्नी ने बताया था कि चीज के बहाने 'Sh' को बुलाया था और उसके हाथ में अपना प्राइवेट रख दिया और उसके मुंह में भी डाला। पुलिस में शिकायत मेरी पत्नी और घर वालों में से किसी ने की थी। ये लोग वहां पर गए भी थे और वहां काफी हंगामा हुआ था।

(ii). When his attention was drawn towards the document *Ex. DW-1/A* and asked about the number of incoming and outgoing, he stated as under:

यह कहना सही है की document *Ex. DW-1/A* के according, कॉल की incoming भी है और outgoing भी है। यह कहना गलत है कि यह call record का mode of proof गलत है। मुझे नहीं पता कि यह document



True Caller App Company से आया हुआ document है या नहीं। यह कहना सही है की मैंने आज तक इनसे कभी पैसे की डिमांड नहीं की। (Vol. इन्होंने हमें समझौते के लिए पैसे का ऑफर दिया था)।

Court Q- आपने offer accept क्यों नहीं किया ?

Ans. हमें गुस्सा था की बच्ची के साथ गलत किया और यह ऑफर दे रहे है।

(D). He was also re-examined by the learned defence counsel to clarify the new fact emerged in the cross-examination. It reads as under:

(i). 23 और 24 तारीख को जो मुझे बातें केस के बारे में पता चली थी वो मैंने अपने घर पर discuss करी थी। मैंने offer वाली बात घर पर discuss नहीं की थी। मैंने offer वाली बात पुलिस को नहीं बताई थी। ये कहना गलत है कि मैंने ऑफर वाली बात ना घर पर और ना पुलिस को इसलिए नहीं बताई क्योंकि accused के परिवार ने मुझे कभी ऐसा ऑफर नहीं दिया था।

24. DW-2/Satish was accused's elder son.

(A). His examination-in-chief reads as under:

(i). Accused मेरे father है। 23.12.2025 की बात है शाम को 7:30 बजे के आस-पास, मैं ऑफिस में बैठकर अपना काम कर रहा था तो गली से शोर सुनाई दिया। फिर मैंने बाहर निकलकर देखा कि पापा की दुकान पर 2-3 लेडीज मार-पीट कर रही थी तो मैं दूकान पर पहुंचा। तो मैंने पापा को छुड़ाया और पूछा कि क्या हुआ तो उन्होंने बोला कि आपके पापा हमारी बच्ची के साथ गलत कर रहे थे। फिर थोड़ी देर बाद पुलिस आ गई और जीप में डालकर थाने ले गई। फिर मैं और मेरा भाई भी थाने पहुंच गए। पुलिस वालों ने हमें थाने में



पापा से मिलने नहीं दिया। उन्होंने कहा कि आप बाहर इंतज़ार करो, जब आपकी ज़रूरत होगी तब बुला लेंगे। जब हम थाने में बाहर इंतज़ार कर रहे थे तो करीब 10:30/11:00 PM के आस-पास बच्ची की मौसी, मौसा और कुछ और लोग हमारे पास आए और उनमें से किसी ने एक नंबर दिया कि अगर केस नहीं करना है तो इस नंबर पर बात कर लेना। पता लगा कि यह नंबर बच्ची के मौसा 'DG' का है, उन्होंने आकर मुझसे बात की अगर केस नहीं करना है तो हमें 6 लाख रुपये दे दो, अभी हमने एफआईआर रुकवा दी है।

(ii). रात को 12:00 बजे से पहले हमने पापा से बात की कि वो लोग पैसे मांग रहे हैं तो पापा ने कहा कि मैंने कुछ गलत नहीं किया है तो पैसे नहीं देने। हम रात को लगभग 01:00 बजे तक थाने में रहे थे। फिर मैंने 12:30 के आस-पास 'DG' को कहने के लिए फोन किया था कि किस बात के पैसे मांग रहे हो लेकिन 'DG' ने फोन नहीं उठाया। 'DG' जाने से पहले मुझे कह गया था की अगर पैसों का इंतज़ाम हो जाये तो मुझे फ़ोन कर देना । फिर हम घर पर आ गए ।

(iii). अगले दिन सुबह 8:30 बजे मैंने उनको दोबारा फोन किया था यही बात कहने के लिए तो उन्होंने बोला था कि हम थाने आकर बात करेंगे। उसके बाद विक्टिम के परिवार वाले थाने आये थे और हम भी थाने गये थे। वहां थाने में 'DG' ने कहा कि पैसों का इंतज़ाम हो गया है तो मैंने मना कर दिया कि हम पैसे नहीं देंगे, हमारे पापा बेकसूर हैं। 'DG' के फोन 3-4 बार आए और शाम तक हमसे मिलते रहे और बोला कि अभी भी टाइम है हमने FIR रुकवा रखी है। जब हमने पैसों के लिए मना कर दिया तो उन्होंने FIR करवा दी।

(iv). मेरा फ़ोन नंबर 9250547054 है । यह वोडाफोन का है और दूसरा नंबर 9250060026 'DG' का है ।



(v). He produced his mobile phone and True Caller App of the phone of the witness is opened and the history wherein is the same copy which is Ex. DW-1/A is shown to the witness. My Email-id is skg10jan81@gmail.com. मैंने अपनी इस e-mail ID पर 24.12.2025 की सीडीआर मंगवाई थी, जिसकी कॉपी Ex. DW-2/A है और Certificate u/s 63 BSA is Ex. DW-2/B है जिस पर मेरे signature at point A पर है। True Caller में जो फोटो आ रही है वो 'DG' की है।

(B). His cross-examination conducted on behalf of State reads as under:

(i). मेरा ऑफिस मेरे पापा की दुकान से एक दूकान छोड़ कर है। यह कहना सही है की document, Ex. DW-1/A True Caller Company से आया हुआ रिप्लाय नहीं है। यह कहना सही है की document, Ex. DW-2/A में DG के नंबर की कोई इनकमिंग कॉल नहीं है।

(ii). ये कहना सही है कि मैंने आज तक किसी भी public authority के सामने हमसे केस के बदले में पैसे मांगे कि शिकायत कभी नहीं की। (Vol. मैंने थाने में कहा था, लिखित में कोई शिकायत नहीं दी थी)। यह कहना सही है कि मैंने अपने नंबर का कस्टमर एप्लीकेशन फॉर्म आज नहीं दिखाया है जिससे कि मैं यह बता सकूँ कि यह नंबर मेरे नाम से है।

(iii). जो CCTV footage कोर्ट में चलाई थी उसमे जो lady दूकान के सामने से निकल रही है वो मेरी wife है। मैं 5:00 बजे नांगलोई वाले ऑफिस से आ जाता हूँ तो मेरी wife हर रोज उसके बाद सुनील डेरी से दूध और बाकी सामान लेने जाती है।



(iv). ये कहना गलत है कि मेरी पत्नी को दूध लेने के साथ-साथ मेरे पिता पर शक भी था कि वो बच्ची/पीड़ित के साथ गलत करता है इसलिए भी वो वहां पर चक्कर लगा रही थी। ये कहना सही है कि मेरी पत्नी उस समय दुकान के आगे रुकी भी थी। यह कहना गलत है कि मैं इच्छुक गवाह हूं और मैं अपने पिता को बचाने के लिए झूठी गवाही दे रहा हूं।

Court Q- आपने थाने में किसको बताया था कि victim की family हमसे पैसे की डिमांड कर रही है ?

Ans. जहाँ पर पापा को रखा हुआ था, जो पुलिस वाले उस समय उनके साथ थे।

25. Thereafter, DE was closed and the matter was posted for final arguments.

ARGUMENTS:

26. It was submitted by the learned Special Public Prosecutor *Sh. Rajiv Kamboj* that victim's evidence is trustworthy and corroborated by oral and electronic evidence satisfactorily beyond reasonable doubt. He submitted that despite her young age, the victim's evidence was consistent and clear and she was able to explain the 'act' committed by the accused with certainty and clarity; intelligently and without difficulty. He submitted that during examination-in-chief, when clarification was sought about her repeated visits to the shop, she innocently answered वहाँ अच्छी टॉफी मिलती है, which according to him, shows that she has told the truth before the court.



27(a). *Per contra*, it is stated by the learned defence counsel that PW-4's testimony is riddled with contradictions and improvements. He has taken this court through her testimony and previous statements and stated that she is not a credible and reliable witness.

(b). He has also taken this court through the testimony of victim's maternal aunts and stated that they have contradicted each other. He stated that PW-3/N stated that when she reached home on the alleged date of incident, her sister 'Su', *Suraj*, *Sarojini* and children were present there. Whereas, her sister 'Su' testified that they (both of them) had gone home together.

(c). He submitted that conduct of victim's *mausi* in such a distressing situation is unnatural and drew attention of the court towards PW-8's testimony wherein he stated that 'N' and *Sarojini* aunty discussed the matter while sitting around the fire. He posed a question to the court 'आग जला कर कौन बैठता है ऐसी situation में ? According to him, this was a highly unnatural conduct of 'N' which creates doubt on the prosecution case.

(d). He stated that PW-2/*Sarojini* is a planted witness. He submitted that as per prosecution said *Sarojini* aunty was living in front of victim's house yet when the IO/SI *Pooja* questioned the victim about her name, she stated that she does not know who that aunty was. The relevant question i.e., question no.21 of the questioner reads as under:



21. गली की किस आंटी ने घर पर बता दिया और क्या बता दिया ?

Ans. आंटी ने बताया था की इसको दुकान पर चीज लेने मत भेजा करो, ये बूढ़े के साथ चीज के लिए लड़ रही थी। मैं नहीं जानती वो आंटी कौन थी।

(e). He also submitted that all the prosecution witnesses are interested witnesses and no reliance can be placed on their testimony.

(f). He also submitted that usually it is the practice to examine the IO after examination of all the prosecution witnesses, however, in *casu*, PW-11/ 'Su' was intentionally examined after examination of the IOs to fill the lacuna in the case.

(g). He further submitted that there is unexplained delay in lodging the FIR and medical examination of the victim.

(i). He, therefore, prayed that accused may be acquitted of the charge levelled against him.

28. In rebuttal, it is stated by the learned Prosecutor that discretion is given to Prosecutor to decide the sequence of witnesses he wants to examine to prove the guilt of the accused. He submitted that when the IOs were summoned for their examination, no objection was taken by the learned defence counsel regarding the sequence of the examination of the witnesses. Hence, now he cannot take the plea that 'Su' was examined after examination of 2nd IO/SI *Manisha*. He further submitted that SI *Pooja* was the main IO and her cross-



examination was conducted after examination of PW-11/Su. Thus, now the learned defence counsel cannot take the plea that PW-11 was examined after the examination of IO. He submitted that mere stating that 'Su' was intentionally examined after the examination of the IOs would not suffice, he has to show what prejudice has been caused to him by the examination of 'Su' who was cited as a prosecution witness in the list of witnesses. Even otherwise, if he was aggrieved by the examination of 'Su', he would have requested for further cross-examination of PW-SI *Manisha* but no such request was made during trial. He, therefore, prayed that contention may be rejected as afterthought.

ANALYSIS AND REASONING:

29. I have heard *Sh. Rajiv Kamboj*, learned Special Public Prosecutor for the State, *Sh. R. R. Jha*, learned Legal Services Advocate and *Sh. Sachin Dev Sharma*, learned counsel for the accused. I have also perused the file very carefully.

30. The accused is, *inter-alia*, charged for an offence punishable under section 6 POCSO Act, a special statute which has been enacted to deal with child sexual abuse cases. **The Act defines a child as any person below the age of eighteen years {section 2(1)(d)}.**

31. It was contended on behalf of State by the learned Special Prosecutor that the allegations, involved section 6 of the POCSO Act, would automatically entail the presumption available to the



prosecution under section 29 of POCSO Act. He reiterated that section 29 of the Act creates a 'presumption of guilt' on the part of accused if he is prosecuted for committing the offence of penetrative sexual assault.

32. In rebuttal, it was submitted by the learned defence counsel that section 29 POCSO Act, no doubt, raises presumption of guilt on the part of accused but the said presumption would operate only in the event the foundational or basic facts are fully satisfied by the prosecution. He submitted that the initial burden exists upon the prosecution and only when it stands discharged, would the legal burden shift. He submitted that if the prosecution fails to prove the foundational facts, one of which is the alleged occurrence, presumption would not arise. He submitted that since the prosecution has failed to prove the occurrence, no presumption under section 29 of the Act can be drawn.

33(A). The Hon'ble Supreme Court of India in the case of ***Bhanei Prasad @ Raju vs. State of Himachal Pradesh***, decided on 4 August 2025, 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.



(B). The Hon'ble Gauhati High Court in the case of **Bhupen Kalita vs. State of Assam**, (2020)3 GLT 403, after referring to various judgments, has listed out the principles applicable in POCSO Act for drawing presumption under section 29 and 30 of the Act and the same are extracted hereunder:

“71. In the light of the discussions above, the following legal positions emerge in any proceeding under the POCSO Act.

(A) The prosecution has to prove the foundational facts of the offence charged against the accused, not based on proof beyond reasonable doubt, but on the basis of preponderance of probability.

(B) Accordingly, if the prosecution is not able to prove the foundational facts of the offence based on preponderance of probability, the presumption under section 29 of the Act cannot be invoked against the accused.

(C) If the prosecution is successful in establishing the foundational facts and the presumption is raised against the accused, the accused can rebut the same either by discrediting the prosecution witnesses through cross-examination or by adducing his own evidence to demonstrate that the prosecution case is improbable based on the principle of preponderance of probability. However, if it relates to absence of culpable mental state, the accused has to prove the absence of such culpable mental state beyond reasonable doubt as provided under section 30 (2) of the Act.

(D) However, because of legal presumption against the accused, it may not suffice by merely trying to discredit the evidence of the prosecution through cross-examination, and the defence may be required to adduce evidence to dismantle the legal



presumption against him and prove that he is not guilty. The accused would be expected to come forward with more positive evidence to establish his innocence to negate the presumption of guilt".

(C). A Division Bench of the Hon'ble Tripura High Court in the case of *Sri Lalmsom Kaipeng vs. The State of Tripura*, reported as AIR ONLINE 2021 TRI 147 while dealing with the issue of presumption under section 29 and 30 of the POCSO Act, held as under: -

"28. To say more comprehensively, the presumption to be drawn under section 29 and 30 of the POCSO Act do not absolve the prosecution of its duty to establish the foundational facts. Prosecution has to establish a prima facie case beyond reasonable doubt. Only when the fundamental facts are established by the prosecution, the accused will be under obligation to rebut the presumption that arise, by adducing evidence with standard of proof of pre-ponderance of probability. The insistence on establishment of fundamental facts by prosecution acts as a safety guard against misapplication of statutory presumption. **Foundational facts in POCSO Act include: -**

- i) that the victim was a child;
- ii) that alleged incident has taken place;
- iii) that the accused has committed the offence; and
- iv) whenever physical injury is caused, to establish it with supporting medical evidence.

29. If the fundamental facts of the prosecution case are laid by the prosecution by leading legally admissible evidence, the duty of the accused is to rebut it, by establishing from the evidence on record that he has not committed the offence. This can be achieved by eliciting patent absurdi-



ties or inherent infirmities in the version of prosecution or in the oral testimony of witnesses or the existence of enmity between the accused and victim or bring out material contradictions and omissions in the evidence of witnesses, or to establish that the victim and witnesses are unreliable or that there is considerable and unexplained delay in lodging the complaint or that the victim is not a child. Accused may reach that end by discrediting and demolishing prosecution witnesses by effective cross-examination. Only if he is not fully able to do so, he needs only to rebut the presumption by leading defence evidence. Still, whether to offer himself as a witness is the choice of the accused. Fundamentally, the process of adducing evidence in a POCSO case does not substantially differ from any other criminal trial; except that in a trial under the POCSO Act, the prosecution is additionally armed with the presumptions and the corresponding obligation on the accused to rebut the presumption. It is imperative to mention that in POCSO cases, considering the gravity of sentence and the stringency of the provisions, an onerous duty is cast on the trial court to ensure a more careful scrutiny of evidence, especially, when the evidence let in is the nature of oral testimony of the victim alone and not corroborated by any other evidence-oral, documentary and medical...”.

34. Thus, to reach a final conclusion in this matter, the following questions need to be answered:

- (i). Whether the victim was a ‘child’ within the meaning of section 2(1)(d) of the POCSO Act as on the alleged date of commission of offence?
- (ii). Whether the victim was subjected to penetrative sexual assault? and



(iii). Whether the accused was the one who committed penetrative sexual assault on the victim?

35. Now, let us examine the issues one by one.

IDENTITY OF THE ACCUSED:

36. Identity of the accused is not in dispute.

AGE OF THE VICTIM:

37. The pivotal issue is the age of the victim at the time of alleged incident i.e., on 23.12.2025.

38. The Hon'ble Supreme Court in the case of *Just Rights for Children Alliance vs S. Harish*, decided on 23 September, 2024, has held that the determination of whether the individual involved is a 'child' or not, in terms of the POCSO is a crucial foundational element for constituting various offences under the Act.

39(a). The procedure to determine age of a person is provided in section 94 of The Juvenile Justice (Care and Protection of Children) Act, 2015 (which is *pari materia* to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rule, 2007). Relevant part of it reads thus: -

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.

(b). The Hon'ble Supreme Court in the case of *Jarnail Singh vs. State of Haryana, (2013) 7 SCC 263*, has held that Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 though strictly applicable to a child in conflict with law, would also be applicable to determine the age of a child who is a victim of a crime. Relevant para of the judgment reads as under:-

"(6).....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...".

(c). The Hon'ble Delhi High Court in the case of *Suraj Piri vs State, passed in CrI. M.C. 5989/2019* decided on 24.12.2019, while relying on the decision of the Hon'ble Supreme Court in *Jarnail Singh' case (supra)* held that the procedure to determine age of a 'juvenile in conflict with law' in terms of Rule 12 of



Juvenile Justice (Care and Protection of Children), Rules 2007 is also applicable for determination of age of the child victim.

(d). Recently, the Hon'ble Supreme Court in the case of ***P. Yuvaprakash vs. State Rep. by Inspector of Police*** decided in 18th July, 2024 in a case under section 6 POCSO Act held as under: -

“13.....wherever the dispute with respect to the age of a person arises in the context of her or him being a victim under the POCSO Act, the courts have to take recourse to the steps indicated in section 94 of the JJ Act.

(e). It was further held in ***P. Yuvaprakash's (supra)*** thus: -

“14..... The burden is always upon the prosecution to establish what it alleges...

17. In Abuzar Hossain @ Gulam Hossain vs. State of West Bengal, this court, through a three-judge bench, held that the burden of proving that someone is a juvenile (or below the prescribed age) is upon the person claiming it...”.

40. Since the victim did not have any birth certificate issued by the Corporation or Municipal Authority or *Panchayat* and has not been admitted in any school at the relevant time, IO/SI *Pooja* produced her before the CWC for determination of her age. The CWC declared the age of the child as 8 years (approximately) on the basis of her physical appearance. Relevant part of the order reads as under:

“The child's age is declared approximately 08 years old”.



41.1. As per the Scheme of the JJ Act, when it is obvious to the Committee or the Board, based on the appearance of the person, that the said person is a child, the Board or Committee shall record observations stating the age of the Child as nearly as may be without waiting for further confirmation of the age. Therefore, the first attempt to determine the age is by assessing the physical appearance of the person when brought before the Board or the Committee. It is only in case of doubt, the process of age determination by seeking evidence becomes necessary (Ref: ***Rishipal Singh Solanki vs The State of Uttar Pradesh***, decided by the Hon'ble Supreme Court on 18 November, 2021).

41.2. Thus, the CWC was well within its power to declare the age of the child on the basis of her physical appearance.

42. Even otherwise, the accused has not disputed the age of the victim and admitted the genuineness of the above order in his statement recorded under section 330 BNSS. The said order, *Ex. A-5*, on being admitted by the accused became authentic and the contents thereof became substantive evidence [Ref: ***Saddiq & Ors. vs State***, 1981 CRILJ 379; ***Ishwer Soni vs The State (Govt of NCT of Delhi)*** AIRONLINE 2020 DEL 1615]. Thus, the same has to be read in evidence. It is apposite to note that under the JJ Act, it is only in case of doubt, the process of age determination by seeking evidence becomes necessary. However, since the accused has not disputed the age of the child (as declared by the



CWC), the age of the victim is accepted as eight years on the date of alleged incident.

43. Further, the testimony of PW-2 and PW-3 that victim is aged about 9 years has gone un rebutted and un-controverted as they have not been cross-examined on this aspect of the case by the accused.

44. In view of the above discussion, I am of the view that prosecution has successfully proved that victim was aged **about eight (8) years on the date of commission of alleged offence and thus, a 'child' within the meaning of section 2 (1)(d) of the POCSO Act.**

45. Now, let us decide the charges one by one.

CHARGE UNDER SECTION 6 POCSO ACT:

46. It is the case of prosecution that accused *Veer Bhan* committed an act of sexual penetration with the victim by inserting his penis into her mouth.

47.1. Section 3 defines '*penetrative sexual assault*', as follows:

3. Penetrative sexual assault- A person is said to commit "penetrative sexual assault" if

(a) he **penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child** or makes the child to do so with him or any other person; or



(b) he inserts, to any extent, any object or a part of the body, not being the penis, into vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

47.2. Section 5 POCSO Act defines “aggravated penetrative sexual assault”, *inter alia*, to mean

‘Penetrative sexual assault on a child below twelve years’ (as per clause (m) of Section 5 of the POCSO Act),

47.3. Section 6 of the POCSO Act provides punishment for aggravated penetrative sexual assault. It reads as under: -

6. Punishment for aggravated penetrative sexual assault- (1) *Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.*

47.4. From the above definitions, it is clear that insertion of penis, to any extent, into the mouth of the ‘child’ would amount to penetrative sexual assault under section 3(a) POCSO Act and if age of the ‘child’ is below twelve years, the offence becomes aggravated within the meaning of section 5 (m) punishable under section 6 thereof.



48. Learned defence counsel submitted that the victim, in her first statement, referred to one plot. However, the CCTV footage does not show the victim or the accused proceeding to or being taken to or present at any such plot. This material contradiction between her initial statement and the CCTV evidence renders her evidence unreliable. Furthermore, her testimony is riddled with contradictions and is not supported by any independent corroborating evidence.

49(i). *Per contra*, the learned Special Public Prosecutor for the State urged that victim, aged about eight years, categorically implicated the accused for committing rape and gave a consistent version in her statements recorded twice under section 183 BNSS as well as in her deposition before the Court. She also identified the accused in the court as the perpetrator of crime and her testimony has been duly corroborated on material facts by the accused's daughter-in-law/CW-1 and independent witness, PW-2. He submitted that victim had no ulterior motive to level false allegations against the accused, whom, as per the accused himself, she used to call him 'dada' (grand-father).

(ii). As far as the contradictions pointed out by the learned defence counsel are concerned, learned Prosecutor stated that they are peripheral and does not affect the core of the prosecution case.



50. It is the case of prosecution that accused, a 72 years old man, sexually assaulted the child victim, an 8-year-old girl, in his shop by inserting his penis into her mouth. During this period, accused's daughter-in-law, CW-1, passed through the shop, saw or noticed something suspicious, waited for the victim, took her behind a stationed tempo, warned her strictly by slapping her not to come to the shop again, and then, took her towards her home. On the way, a neighbor, PW-2 met them. The daughter-in-law told the neighbor that her father-in-law was doing wrong things with the child and asked her to tell the child's family not to send her to the shop anymore. The neighbor informed the child's family.

51. To prove the allegations, the victim was summoned and examined as PW-4.

52(A). She testified that she had gone to the shop of accused to buy eatables when accused took her near the fridge and inserted his penis into her mouth. Relevant part of her examination-in-chief reads as under:

“मैं दुकान जा रही थी। अंकल मेरा हाथ पकड़ कर फ्रिज के पास लेकर गए और अपना आगे का मेरे मुँह में डाल रहे थे।

Q: अपने आगे का से आपका क्या मतलब है ?

Ans. बाथरूम करने वाला।

(B). It was contended on behalf of the State that victim's account of what happened in the shop on the alleged date is



consistent and, is duly corroborated by her previous statements made to the learned Magistrate under section 183 BNSS twice.

(C)(i). Relevant part of the first statement made to the learned Magistrate, Ex. PW-4/A reads as under:

मेरा हाथ पकड़ कर मुझे दुकान में लेकर गए, फिर पैंट उतारा,
आगे का अपना मेरे मुँह में डाला।

(ii). Relevant part of the second statement, Ex. PW-4/B reads as under:

वो मेरा हाथ पकड़ कर फ्रिज के पास ले कर गए थे। अपने
आगे का मेरे मुँह में डाल रहे थे।

(D). Before proceedings further, it would be apposite to note that the incident allegedly occurred on 23.12.2025 and the police was informed on the same day at 20:15:26. Within a short span of approximately 2-3 days, the victim made her statement, Ex. PW-4/A to the learned Magistrate on 26.12.2025. However, the second statement, Ex. PW-4/B was made after a lapse of about 21 days.

(i). It is trite law that any former statement made by a witness at or about the time when the incident took place becomes usable as of corroborative value under section 160 of BSA (*pari-materia* with section 157 of the Indian Evidence Act). It reads as under:

in order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.



The section can be dissected into two parts:

(a). the statement must be made at or about the time when the fact (occurrence) took place; and

(b). the statement must have been made before any authority legally competent to investigate.

(ii). The expression 'at or about the time when the fact took place' is not rigid; it must be interpreted contextually based on the facts of each case. The Hon'ble Supreme Court in the case of **State of Tamil Nadu vs Suresh**, AIR 1998 SC 1044 while dealing with the above expression and delay of few days in making the statement, held as under:

*We think that the expression "at or about the time when the fact took place" in section 157 of the Evidence Act should be understood in the context according to the facts and circumstances of each case. The mere fact that there was an intervening period of a few days, in a given case, may not be sufficient to exclude the statement from the use envisaged in section 157 of the Act. The test to be adopted, therefore, is this; Did the witness have the opportunity to concoct or to have been tutored? In this context the observation of Vivian Bose, J. in *Rameshwar vs. The State of Rajasthan* (AIR 1952 SC 54) is apposite: "There can be no hard and fast rule about the 'at or about the' condition in section 157. The main test is whether the statement was made as early as can reasonably be expected in the circumstances of the case and before there was opportunity for tutoring or concoction".*



(E). In *casu*, since both the statements, *Ex. PW-4/A* and *Ex. PW-4/B* were made before an authority i.e., the Magistrate (ref: *Ramprasad vs. State of Maharashtra*, AIR 1999 SC 1969), they qualify under the second part of section 160 BSA. As far as the first part of the section is concerned, the first statement, *Ex. PW-1/A*, was made within a short span of 2-3 days, it qualifies the first part also. While the 21 days gap in recording of second statement may diminish its probative value, however, if we compare both the prior statements and her court testimony, it shows consistency in her stand that accused took her near the fridge and inserted his penis into her mouth. Such consistency rebuts inference of afterthought, tutoring, improvement or fabrication. Thus, both the statements made to the learned Magistrate are relevant as to 'conduct' in view of the Illustration (j) appended to section 6 of the BSA and are admissible for the purpose of 'corroboration' under section 160 thereof.

53. It was contended on behalf of accused that there is discrepancy in time of alleged incident. He drew attention of the court towards the *tahrir*, wherein time of alleged incident is mentioned as 'समय दोपहर का समय'. He also drew attention of the court towards the certificate *Ex. PW-7/A* purportedly issued by the person concerned under section 63 BSA and stated that as per this certificate, the CCTV camera was running 01 hour 12 minutes from the actual time. He submitted that from this certificate, it is not clear whether the CCTV camera was running ahead (fast) by 01 hour 12 minutes or running behind (slow) 01 hour 12 minutes. He submitted that if the CCTV was running



ahead, the displayed time i.e., 17:30:28 would actually correspond to around 18:42:28 and if the CCTV was running behind, the displayed time i.e., 17:30:28 would actually correspond to around 16:18:28. He submitted that neither adjustment (fast and slow) brings the time-stamp close to 'noon', which creates doubt about the genuineness of the prosecution case.

54. In none of her statements did the victim mention the time of the alleged incident. Nor any question was asked by the learned Magistrate, learned Prosecutor or by the learned defence counsel regarding the same. However, the CCTV footage shows that the victim visited the shop on the alleged date, first at 17:07:52 (as per CCTV time-stamp) and second time at 17:25:39 (as per the CCTV time-stamp).

(a). Regarding the CCTV footage, it was contended on behalf of accused that there is discrepancy in the timestamp i.e., there is a difference in the time as reflected in the CCTV footage vis-à-vis the real time (noon) alleged by the prosecution. Therefore, according to the learned defence counsel, the said footage cannot be relied upon to connect the accused with the incident or cannot be used as corroborative evidence. He also drew attention of the court towards the cross-examination of SI *Pooja* wherein she admitted the suggestion that she did not conduct the investigation regarding time difference between the actual time and time depicted in the CCTV footage.



(b). *Per contra*, it was contended on behalf of State that PW-7, having control over the DVR & the CCTV cameras, had exhibited a certificate under section 63 BSA as *Ex. PW-7/A* and stated that the pen drive was copied from the DVR that contained the CCTV footage of the incident dated 23.12.2025 from 12:00 p.m., to 08:00 p.m. The said pen-drive was sent to FSL for analysis and on examination, no indication of any form of alteration was noticed by the forensic expert. The said report of FSL expert was not disputed and admitted by the accused in his statement under section 330 BNSS. He further submitted that the CCTV footage is, thus, admissible in evidence as electronic evidence and mere fact that there was some time difference does not affect the core of the prosecution case particularly when the accused has not disputed his presence as well as of victim and his daughter-in-law. He also placed reliance on a judgment passed by the Division Bench of the Hon'ble Delhi High Court in the case of *Anil Kumar Vats vs State of NCT of Delhi*, decided on 27 May, 2025, wherein it was held as under:

34.....It is also a matter of record that the certificate under section 65-B of the Indian Evidence Act, 1872 Ex. PW-44/A dated 05.02.2024 has also been proven in the testimony of PW-44 and the same has not been assailed in any manner. In the said facts and circumstances, there are no grounds to dispense with the CCTV footage as being unreliable, inadmissible or being tampered with in any manner possible.

55.1. I do not find force in the argument of the learned defence counsel.



Firstly, the accused has not disputed the factum of victim coming to his shop in the evening time. It is trite that facts admitted need not be proved.

Secondly, the CCTV footage, duly certified under section 63 BSA and proved through the testimony of PW-7, clearly depicts the victim entering the shop of the accused, the presence of the accused therein and his daughter-in-law passing in front of the shop. The admission (presence in the shop and his daughter-in-law passing by) aligns with the CCTV visuals and testimony of CW-1. Further, as per FSL report, *Ex. A-7*, 'there was no indication of any form of alteration in the continuous video footage of CCTV recordings'. The FSL report, on being admitted by the accused became authentic and the contents thereof became substantive evidence. Thus, the same has to be read in evidence. The FSL examination having ruled out any tempering, the footage stands authenticated and reliable as electronic evidence under section 65-B of the Evidence Act.

55.2. It is apposite to note that this court has carefully perused the entire record, including the CCTV footage. The court has watched the entire CCTV footage, however, it does not show the victim coming to accused's shop during noon time. The victim has also nowhere stated that she went to the shop during noon time. Where this 'noon time' came from is a mystery. In the considered opinion of this court, the discrepancy pointed out by the learned defence counsel regarding the time does not affect the



credibility of the victim, rather, it reflects on the conduct of the investigating officer, SI *Pooja* and the fairness of the investigation conducted by her.

55.3. Learned Prosecutor pointed out towards the statement of victim's *mausi* 'N' recorded under section 180 BNSS wherein noon time is mentioned.

55.4. This statement is dated 25.12.2025 whereas the *rukka*/FIR is dated 24.12.2025. Till the registration of the FIR, there was no statement whatsoever mentioning or indicating that the incident had happened at 'noon' time. Post-FIR statements cannot retrospectively validate the mentioning of 'समय दोपहर का समय' in the *tahrir*. On the contrary, it reflects poorly on the IO's conduct.

56. At the cost of repetition, it is apposite to note that the child victim is clearly visible in the CCTV footage. However, there is a continuous gap of approximately 41 seconds during which she is not visible anywhere in the camera frame. Now the question that begs an answer is what happened during this time whilst the victim was alone in the company of accused for 41 seconds? When the court asked the victim where was she during this period of approximately 41 seconds (when she was not visible on the CCTV footage), she immediately answered 'मैं अंदर हूँ फ्रिज के पास'. The absence of the child victim from view for 41 seconds is a short but material period. Though the CCTV footage does not show any sexual act committed upon the victim, it is also true that it does not disprove the child victim's consistent account of



being taken near the fridge and insertion of 'bathroom करने वाला' into her mouth. Her answer to the question regarding her absence from view (at 17:30:29) that 'मैं अंदर हूँ फ्रिज के पास' was prompt, spontaneous and consistent with her earlier account and rules out the possibility of any tutoring.

57. It was contended on behalf of accused that victim was not standing near or behind the fridge but was standing near the stool during the period she is not visible in the CCTV footage. He also drew attention of the court towards the statement of accused recorded under section 351 BNSS [answer to question 4(k)] wherein he stated that 'बच्ची, काउंटर के पास स्टूल है, उसके पास खड़ी है, वो फ्रिज के पास नहीं है।'

58. *Per contra*, it was stated by the learned Prosecutor for the State that this plea was taken for the first time by the accused in his statement recorded under section 351 BNSS and was not put to the victim, who categorically and consistently stated that she was near the fridge. He, therefore, prayed that the defence may be rejected as the same is an afterthought to wriggle out of the indictment in which he has stuck.

59. It is no more *res-integra* that the statement recorded under section 351 BNSS (*pari-materi* with section 313 of the Code) is not a substantive piece of evidence because firstly, it is not recorded on oath and secondly, the prosecution had no opportunity to cross-examine him thereon. The Hon'ble Supreme Court in the case of *Dehal Singh vs State of H.P.*, AIR 2010 SC



3594, while dealing with the scope of section 313 of the Code, held as under:

“Statement under section 313 of the Code of Criminal Procedure is taken into consideration to appreciate the truthfulness or otherwise of the case of the prosecution and it is not evidence. Statement of an accused under section 313 of the Code of Criminal Procedure is recorded without administering oath and, therefore, the said statement cannot be treated as evidence within the meaning of section 3 of the Evidence Act. The appellants have not chosen to examine any other witness to support this plea and in case none was available they were free to examine themselves in terms of section 315 of the Code of Criminal Procedure which, inter-alia, provides that a person accused of an offence is a competent witness of the defence and may give evidence on oath in disproof of the charges. There is reason not to treat the statement under section 313 of the Code of Criminal Procedure as evidence as the accused cannot be cross-examined with reference to those statements. However, when an accused appears as a witness in defence to disprove the charge, his version can be tested by his cross-examination.”

60(i). When the CCTV footage was put to the victim and asked about her position (during the period she was not visible in the CCTV footage), she categorically stated that she is near the fridge. When this incriminating piece of evidence was put to the accused while recording his statement under section 351 BNSS, he denied the same and stated that she was standing near the stool and not near the fridge. The question was its answer read as under:



4(j). Regarding the CCTV footage from 17:30:29 to 17:30:55, she stated that she was inside the shop, near the fridge (CCTV is played and shown to the accused). What you have to say?

Ans. ये बिलकुल झूठ है। बच्ची, काउंटर के पास स्टूल है उसके पास खड़ी है, वो फ्रिज के पास नहीं है।

(ii). However, this version that 'she was standing near the stool and not near the fridge' was not put to the victim during her cross-examination thereby depriving her the opportunity to affirm, deny, clarify or explain the contradiction (regarding her position). Such uncontested defences are viewed as afterthought by the Hon'ble Supreme Court. *Exempli gratia*, we may refer one such judgment passed by the Hon'ble Supreme Court in the case of *Jaswant Singh vs. State of Haryana*, AIR 2000 SC 1833. Relevant para of the judgment reads as under:

".....Furthermore, the plea was taken by these accused for the first time in their statements recorded under section 313 of the Code of Criminal Procedure Finally, no such plea of self-defence was put in cross-examination to any of the prosecution witnesses. The High Court, in the circumstances, rightly rejected the plea of self-defence as an afterthought".

(iii). Thus, the plea taken by the accused for the first time in his statement recorded under section 351 BNSS does not create dent in the prosecution case. Nor does it inspire confidence.

(iv). It is also apposite to note that during cross-examination, learned defence counsel showed a photograph of the shop and asked the victim to indicate her and the accused's position (when



accused allegedly inserted his penis into her mouth). The victim, after looking at the photograph, *Ex. PW-4/DA-1*, pointed her position at point 'A' while accused's position at point 'B'. Yet no suggestion was put to her that she was not there (near the fridge) but was instead standing near the 'stool'. It is trite that the requirement that a witness must be confronted with damaging imputation/s is not a formal or a technical one, instead a precept of fairness. In other words, a witness must be given fair opportunity to explain the contradiction or the contrary stand or the defence which a cross-examiner wants to plead. However, in *casu*, that fair opportunity was not given to the victim. Thus, the stand of the victim that she was near the fridge during those 41 seconds has remained unchallenged in cross examination and the prosecution is entitled to assume that the unchallenged testimony of PW-4/victim is admitted as correct.

61. It was contended on behalf of the accused that the victim was questioned about the 'stool' during her cross-examination. He also drew attention of the court towards her cross-examination wherein she stated that there was no stool in the shop.

62. There is no denial of the fact that the learned defence counsel had asked the victim if there was any stool lying in the shop but it is also true that the victim had replied the same in negative. Relevant part of the cross-examination reads as under:

'दुकान पर कोई स्टूल नहीं था।'



Yet, no suggestion was given to her to the effect that there was a 'stool' lying in the shop and that she was standing near that 'stool' and not near the fridge. Nor any photograph of the 'stool' was shown to her. A criminal trial is not a catch-as-catch-can affair but one governed by fairness, transparency and the opportunity to meet the case of the opposite party. However, in *casu*, that fair opportunity was not given to the victim, an eight-year-old girl child, who consistently maintained throughout the investigation and trial that the accused took her near the fridge and inserted his penis into her mouth. Thus, now the defence cannot be permitted to build his case or defence thereon or to discredit the victim taken for the first time in his statement recorded under section 351 BNSS. **Resultantly, her pointed position near the fridge and insertion of penis into her mouth stand unshaken.**

63(i). Before proceeding further, I would also like to note that during the cross-examination of PW-9/SI *Pooja*, the same photograph (as shown to the victim), *Ex. PW-4/DA-1*, was shown to her and asked if the position of the articles/goods was the same as shown in the photograph, she answered in the affirmative. It reads as under:

"At this stage, photo of the shop of the accused, Ex. PW-4/DA-1 is shown to the witness which states that this is the same shop and position of articles/goods is the same when I visited the shop".



(ii). Strikingly, this very question regarding the positioning of the goods/articles/objects was not put to PW-4, who being the eyewitness and the victim, was the most material witness to confirm or deny whether the photograph faithfully represented the layout, placement of goods/articles, presence or absence of objects (stool herein), or any alterations at the material time. Depriving her (victim) of this opportunity undermines the fairness of placing reliance on the photograph, *Ex. PW-4/DA-1*, to contradict the victim and corroborate the accused through the testimony of IO/SI *Pooja*.

(b)(i). Further, section 176(3) BNSS mandates, for offences punishable for seven years or more, to call the forensic expert to visit the crime scene to collect forensic evidence and also to video-graph the process on mobile phone or any other electronic device.

(ii). It was submitted by the learned Special Prosecutor that it is yet to be notified.

(iii). While full mandatory forensic-videography may not have been notified, the spirit of the law, read with SOPs issued by the BPRD (Bureau of Police Research & Development, Ministry of Home Affairs) underscores the duty to photograph/videograph the scene of crime to preserve its integrity and prevent disputes over tampering or re-construction. However, neither the shop was got video-graphed nor was the position of goods or articles or objects shown in the site-plan, *Ex. PW-3/B*. This also reflects



poorly on the conduct of the IO, SI *Pooja* as well as senior police officers.

64. The evidence of the child victim was also sought to be discredited on the ground of inconsistency. Learned defence counsel pointed out that the victim in her first statement to the police as well as under cross-examination on behalf of State has stated that फिर मैं प्लॉट के बाहर से ही अपना हाथ छुड़ा कर घर वापिस आ गई, whereas no such plot or incident is visible in the CCTV footage and no investigation was conducted in that regard by either of the IOs. Thus, according to learned defence counsel victim is not a trustworthy witness and prayed that her entire testimony may be rejected in view of the maxim '*falsus in uno falsus in omnibus*'.

65. *Per contra*, it was stated by the learned Prosecutor for the State that the victim was consistent and clear as to the fact that she was taken near the fridge whereafter she was raped. He submitted that the contradiction pointed out by the learned defence counsel *per se* does not lead to the rejection of the evidence of the child. He submitted that if the court is convinced about the truth of the prosecution story, conviction has to follow (Ref: *Vadivelu Thevar vs The State of Madras*, AIR 1957 SC 614).

66(i). At the outset, I must note that the old maxims "*falsus in uno, falsus in omnibus*" (false in one thing, false in everything) and "*semel mentitus, semper mentitur*" (once a liar, always a liar) do not apply to the Indian criminal jurisprudence.



(ii). The Hon'ble Supreme Court in the case of **Bur Singh & Anr vs State of Punjab**, AIR 2009 SC 157 while dealing with the maxim held as under:

"This plea is clearly untenable. Even if major portion of evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of number of other co-accused persons, his conviction can be maintained. It is the duty of Court to separate the grain from the chaff. Where the chaff can be separated from the grain, it would be open to the Court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno falsus in omnibus" has no application in India and the witnesses cannot be branded as liars. The maxim "falsus in uno falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of a rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be discarded. The doctrine merely involves the question of weight of evidence which a Court may apply in a given set of circumstances, but it is not what may be called 'a mandatory rule of evidence'. (See Nisar Ali v. The State of Uttar Pradesh (AIR 1957 SC 366). Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a Court to differentiate accused who had been acquitted from those who were convicted. (See Gurcharan Singh and Anr. v. State of Punjab (AIR 1956 SC 460). The doctrine is a dangerous one specially in India for if a



whole body of the testimony was to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. Witnesses just cannot help in giving embroidery to a story, however true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment.

(iii). Thus, this court is not prepared to agree with the learned counsel for the defence that if one part of the testimony of a witness is found to be false then entire testimony should automatically be rejected without any further probe.

67(i). Reverting back, there is no thumb rule when it comes to consideration of the credibility of a child witness. The court has to weigh the evidence, consider its merits and demerits and, having done so, decide if it is credible and whether, despite the shortcomings, truth has been told. The Hon'ble Supreme Court in **Vadivelu Thevar's** case (supra) held thus:

(1) As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.



(2) Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires **as a rule of prudence**, that **corroboration should be insisted upon, for example in the case of a child witness**, or of a witness whose evidence is that of an accomplice or of an analogous character.

(3) Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes”.

(ii). Since the victim is not only a single witness to the alleged incident of penetrative sexual assault committed near the fridge but also a child of 8 years, this court would scan her evidence with much caution; satisfy itself if she is speaking the truth and look for corroboration on material particulars as it would be unsafe to convict a 72 years old man on her sole testimony. Regarding corroboration, in the leading case of **Rex v. Baskerville (1)**, it was pointed by Lord Reading C.J. that

"the corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime. The nature of the corroboration will depend on and vary according to the particular circumstances of each case.

68.1. In *casu*, as held in the preceding paras, victim's presence at the alleged spot is duly corroborated by the electronic



evidence/CCTV footage. The footage further shows period when the victim disappears from its frame – when she claimed to be near the fridge. This absence from view for 41 seconds directly supports the victim's version that the act of sexual assault took place near the fridge. The circumstantial evidence in the form of CCTV footage, showing the presence (entry/being there) and absence from view for 41 seconds fortifies the prosecution case. It not only aligns with but also corroborates the victim's version on crucial factual aspects.

68.2. As far as the inconsistency regarding the 'plot' is concerned, the same is immaterial for the determination of the question of the accused's guilt (of insertion of penis in her mouth). The consistent and unequivocal case of the child victim right from the beginning has been that accused took her near the fridge and inserted his penis into her mouth. She has nowhere stated that, either in her initial statement or in her statements recorded under section 183 BNSS that the act of rape was committed in the said plot. Mere mention of the plot in her first statement and in answer to the IO does not by any stretch of imagination, create any inconsistency with her core allegation particularly when no explanation or clarification was sought by the learned defence counsel for the same from the child. Even otherwise, when questioned by the learned defenec counsel if she told the IO that accused tried to take her to the plot, she answered in the affirmative. When the court questioned about the said plot, she stated that it is next to the house adjacent to the shop. On further query about the CCTV footage not showing anything like



this, she answered 'जब आप पूछ रहे थे की मैं दुकान से बहार निकल कर क्या देख रही हूँ तब मैं प्लाट की तरफ देख रही थी'. This provides a plausible explanation for the mention of the plot in her statements to the IO. Such peripheral variations which do not affect the core of the case from a child victim of tender age do not amount to material contradiction.

68.3. Further, when the IO/SI Pooja was questioned if she had shown that plot in the site plan Ex. PW-3/B, she answered in the negative. Relevant part of her cross-examination reads as under:

"The child had shown me the plot. It was near the shop. I have not shown the said plot in the site plan Ex. PW-1/B."

However, her testimony is belied by the site plan, Ex. PW-3/B which clearly shows the plot, positioned subsequently after the shop in question and then a house (i.e., shop – house – plot). It shows that PW-9/SI Pooja was out to speak patent lies in the Court.

69. The learned Special Prosecutor for the State submitted that the truthfulness and spontaneity of the victim's version is reinforced by her answer to the defence counsel's query about her repeated visits to the accused's shop. It reads as under:

"मुझे अच्छा नहीं लगता था पर पर उस दुकान पर अच्छी टॉफी मिलती थी इसलिए मैं उस दुकान पर जाती थी।"



70. This court finds considerable force in this submission of the learned Prosecutor. The aforesaid answer of the victim is strikingly natural, innocent and typical of a child's reasoning and is significant circumstance lending assurance to her truthfulness and reliability.

71. Learned Prosecutor also drew attention of the court towards answer to another question regarding removal of pants, which reads as under:

Q - आपने जज मैडम को बताया अपने पहले वाले बयान में Ex. PW-4/A की "फिर पैंट उतारी", तो क्या आप बता सकते हो कि तो अंकल ने पैंट उतार कर कहाँ रखी थी?
Ans. पैंट पूरी नहीं उतारी थी।

and submitted that the above answer is a classic example of spontaneous, unguarded and truthful deposition.

72. The answer 'पैंट पूरी नहीं उतारी थी।' was spontaneous and was direct rejection of the trap question put by the learned defence counsel. It reaffirms that her testimony is not only truthful and natural but also beyond reproach.

73. The victim further testified that accused's daughter-in-law saw, took her behind the tempo and slapped her.

74.1. It is *common cause* that the accused's daughter-in-law, though interrogated by the IO during course of the investigation, was not examined as a prosecution witness on the ground of biasness. However, she was examined by the court as CW-1. In



her examination, she categorically admitted the following sequence without any material dispute:

- (a). the fact that the victim was physically present in the shop at the relevant time when she was going to Dairy to buy milk;
- (b). she was passing by the shop;
- (c). took the child behind the stationed tempo in the gali
- (d). the factum of meeting a lady, who asked the reason of her scolding the child.

74.2. Her evidence to the extent of meeting a lady on the way was duly corroborated by that lady i.e. PW-2 (*Sarojini*).

(a). It was contended on behalf of accused that CW-1 was intentionally withheld from the court as her statement recorded by the IO during investigation had not supported its story.

(b). *Per contra*, it was contended on behalf of State that the 'conduct' of CW-1 is highly suspicious and indicative of cover-up.

74.3. The conduct of a person is a relevant fact under section 6 of the BSA (*pari-materia* with section 8 of the Indian Evidence Act). It is settled proposition of law that if the conduct of a witness is unnatural and is not in accord with acceptable human



behavior, his testimony becomes questionable. Section 6 BSA reads as under:

6. Motive, preparation and previous or subsequent conduct.

(1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

*(2) The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person, an offence against whom is the subject of any proceeding, is relevant, if **such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.***

Explanation 1.- The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Adhinyam.

Explanation 2.- When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations.

(a) A is tried for the murder of B. The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.



74.4. In exercise of the powers conferred by section 348 BNSS, this court summoned and examined the daughter-in-law of the accused as a Court Witness i.e., CW-1.

(a). During her examination, the relevant portions of the CCTV footage were played in the court. Upon viewing:

She unequivocally identified herself as the woman (wearing blue *dupatta*) depicted in the CCTV footage. She admitted that the person seen crossing the shop, waiting in the *gali*, taking the victim behind the stationed tempo is herself.

She also admitted the sequence, timing and gestures as accurate representation of her conduct on the time of incident. Though she admitted having stopped at 17:32:18, she testified that she was checking her daughter's message.

(b). In the considered opinion of this court, her self-identification and admission of presence/conduct (waiting/taking the victim behind the stationed tempo) in the CCTV footage constitutes an admission under section 53 BSA.

(c). The child victim is also clearly visible and identifiable in the said footage – exiting the shop, following CW-1, going behind the tempo and later pointing in the direction they had gone.

(d). The undisputed and clear depiction of the child victim in the same sequence corroborates her presence at the shop. During



examination, CW-1 offered the explanation for her conduct seen in the CCTV footage that the victim called her and requested not to go to her house and not to tell them that she was asking for goods on credit. Relevant part of her testimony reads as under:

“बच्ची ने मुझे आवाज़ लगाई ‘आंटी’ तो मैंने पीछे पलट कर देखा, मुझे लगा कि शायद मुझे आवाज़ नहीं लगाई तो मैं आगे चलने लगी। फिर उसने मुझे दोबारा आवाज़ लगाई तो मैंने उसको बोला कि टेम्पो के पीछे आ जा। तो बच्ची ने बोला तब हम टेम्पो के पीछे चले गए तो बच्ची ने बोला कि आंटी मेरे घर पर मत जाना। मैंने बोला कि मैं तेरे घर क्यों जाऊँगी, मुझे तो तेरा घर नहीं पता। मैं अंकल से उधार माँग रही थी और आप देख रहे थे तो आप मेरे घर जाकर मत बताना। मैंने बोला कि उधार क्यों माँग रही थी, अंकल से क्यों लड़ रही थी, मैं तेरे घर जाकर तेरी मम्मी को बताऊँगी। तो बच्ची ने बोला कि मेरी मम्मी मर गई है तो मैंने बोला कि तेरे पापा को बताऊँगी तो उसने कहा कि मेरे पापा भी नहीं हैं। मुझे लगा कि बच्ची उधार के लिए इतने बड़े झूठ बोल रही है तो मैंने कहा कि बता तेरा घर कहा है तो बच्ची ने इशारा करके बताया कि मेरा घर इस तरफ है तो मैं उस बच्ची के साथ उस गली की तरफ चली गई उसमें अंधेरा था, बच्ची ने मुझे घर जाने से रोक दिया, मैंने बच्ची को वही छोड़ दिया। उसने कहा कि मेरी मौसी को मत बताना मेरी मौसी मुझे डांटेगी। उसने बोला कि मैं दोबारा दुकान पर नहीं आऊँगी। मैंने कहा कि अगर दोबारा आएगी तो तेरी मौसी को बता दूँगी। तभी पास से एक लेडी गुजर रही थी, उसने पूछा कि क्यों डांट रही हो बच्ची को तो मैंने उसे बोला कि यह बच्ची मेरे ससुर की दुकान पर उधार सामान लेने आती है इसी वजह से मैं उसको डांट रही हूँ, उस लेडी ने भी उस बच्ची को डांटा की उधार सामान नहीं लेते। उस लेडी ने उस बच्ची से पूछा कि कहाँ रहती है तो बच्ची ने उसे इशारा करके बताया तो लेडी ने बोला कि भाग यहाँ से। फिर वो लेडी भी चली गई और वो बच्ची भी चली गई। मैं सुनील डेयरी दूध लेने चली गई।”

(e). This court has carefully examined the explanation offered by the daughter-in-law/CW-1 on the touchstone of probability, consistency with proved facts, and natural human behavior. Having examined the same, this court finds that the explanation



does not inspire confidence of the court and appears to be a contrived, afterthought plea for the following reasons:

➤ The CCTV (played in court during her examination, wherein she identified herself and the child victim), shows that

(i). the victim exited the shop after few minutes accused's daughter-in-law passed the shop. The logical inference would be that if the victim truly wanted to talk to her, CW-1, she would have exited the shop immediately or followed her right away. The absence of such immediacy reduces the probability of voluntary pursuit.

(ii). CW-1 seen waiting, approaching and taking the child behind the stationed tempo within moment.

(iii). There is no footage or suggestion of any visible 'fight' or 'altercation' between the child victim and the accused prior to the child's exit. Had there been a fight or argument, ordinary human conduct would involve intervening then and there and not waiting silently few distance from the shop and isolating the child immediately after exit. This conduct is inconsistent with reacting to a preceding dispute. Even assuming *arguendo* that a verbal disagreement over credit occurred, no prudent person would wait and watch for the child to come out, take her behind the Tempo, slap and warn her not to come to the shop again. On the contrary, the conduct suggests something serious to stop the child victim from coming again to the shop.



74.5. In nutshell, the explanation offered by CW-1, is not only disproportionate and unsupported by any prior evidence (complaint, credit ledger, खाता बही etc), but is also contradicted by the most basic expectation of family behavior; immediate intervention to get the altercation stopped and belies logic. The failure to intervene then and there, coupled with the secretive and aggressive method adopted afterwards, renders the explanation unbelievable. The abovesaid conduct of CW-1, is relevant under section 6 BSA and constitutes a strong corroboration of the prosecution case against the accused.

75. Further, PW-2/Sarojini has corroborated the material aspect of her meeting with the daughter-in-law of accused, CW-1. In her deposition before the court, she testified that she saw CW-1 scolding the child and on inquiry, she confided in and asked her to tell the family not to send the child to the shop. Relevant part of the examination-in-chief reads as under:

“मैं एक दिन शाम के वक़्त ऑफिस से आ रही थी समय करीब 8:00 बजे होंगे। बच्ची को लेकर एक औरत गली में खड़ी थी और उसको धमका कर रही थी। उस औरत ने मुझसे पूछा कि क्या तुम इस लड़की को जानती हो। मैंने बोला कि मैं जानती हूँ और यह मेरी गली में ही रहती है। तब उस औरत ने बोला कि यह बच्ची एक बूढ़े की दुकान पर जाती है और वो बूढ़ा उसको fridge के पीछे ले जाता है। हम बोले कि हम नहीं जानते वो बूढ़ा कौन है तो उस औरत ने बोला कि वो लाला है, मेरा ससुर है और मैं उसकी बड़ी बहू हूँ। उस औरत ने कहा कि मैं तीन दिन से देख रही हूँ कि यह बच्ची दुकान पर आती है और बूढ़ा fridge के पीछे ले जाता है, मेरी बेटी भी सयानी है, उसके साथ भी गलत हो सकता है। उस औरत ने बताया कि वो दुकान से दो घर छोड़ कर रहती है।



76. It was contended on behalf of the accused that PW-2 is not a trustworthy and reliable witness as she has contradicted her previous statement, given to the IO during course of the investigation under section 180 BNSS, while deposing before the court.

77.1. It is *common cause* that police statements or statements obtained from the witnesses by the police are often incomplete or lacking in detail. The purpose of recording the statement of a witness under section 180 BNSS is to enable the investigating agency to determine if a prosecution is called for (whether to charge-sheet the offender or not), if yes, on what charge and to decide which witnesses to call on which charge or issue. In *casu*, it has come on record that PW-2's statement was recorded by the IO virtually and not in person. Regarding the improvements/omissions pointed out by the learned defence counsel, when asked by the court as to why did she not tell the police as frankly as she told in the court today, she answered as under:

“आप लोग आराम -आराम से और प्यार से पूछ रहे हैं इसीलिए सारी बात बता दी”.

77.2. Therefore, she has satisfactorily explained the omission/improvement. Even otherwise, the improvements/omissions pointed out by the learned defence counsel in the statement of PW-2 are not contradictions *per se* but elaborations or explanation of her statement made to the IO under section 180 BNSS. The Hon'ble Supreme Court in the case



of *Sunil Kumar Sambhudayal Gupta & Ors vs State of Maharashtra*, AIR 2010 SCW 7049, while dealing with omissions/improvements held as under:

21. Mere marginal variations in the statements cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited.

78(i). At this stage, it was contended on behalf of the accused that PW-2 is not an independent but an interested or partisan witness 'planted' by the investigating agency to support the prosecution version.

(ii). He submitted that as per prosecution PW-2/*Sarojini* was residing right in front of victim's house, however, during course of the investigation, when the IO/SI *Pooja* questioned the victim about the 'aunty' who had told her family, she stated that she does not know who that aunty was. He drew attention of the court towards question no. 21 and its answer (*Ex. PW-3/D*) which reads as under:

(21). गली की किस आंटी ने घर पर बता दिया था और क्या बता दिया था ?

आंटी ने बताया था की इसको दुकान पर चीज लेने मत भेजा करो ये बूढ़े के साथ चीज के लिए लड़ रही थी। मैं नहीं जानती वो आंटी कौन थी।



He submitted that if PW-2 indeed was the same lady, who met the accused's daughter-in-law, it is highly improbable and unnatural that the victim, PW-4 would not have know her. According to learned defence counsel, the above answer to question no. 21 shows that PW-2/*Sarojini* was introduced later on, which renders her testimony suspect.

79(i). On the contrary, it was contended by the learned LSA that while CW-1 was scolding the child victim, PW-2 from the neighbourhood had the chance to witness the same. He submitted that she was a 'chance witness' who was present at the right place and at the right time.

(ii). As far as question no. 21 of the questionnaires is concerned, it submitted that it was not put to the victim. He also drew attention of the court towards *Ex. PW-4/A* wherein she had referred the *aunty* as '*gali ki aunty*'. He submitted that from the record, it appears that the IO/SI *Pooja* herself has written some answers to give benefit to the accused.

80. Taking the argument forwards, the learned Special Prosecutor for the State submitted that PW-2 was not a planted but a chance witness whose presence was natural at the time and place as she was returning from her work place. He submitted that there is no reason to disbelieve her statement which is duly corroborated by the accused's own daughter-in-law.



4 was not drawn towards this question during her cross-examination by the learned defence counsel. Therefore, the previous statement, Ex. PW-3/D, cannot be legally used to impeach or contradict the victim on this aspect (Ref: **Tahsildar Singh & Anr vs The State of Uttar Pradesh**, AIR 1959 SC 1012). Thus, PW-4's court deposition that "फिर उनकी बहु ने उन आंटी को जो मेरे घर के सामने रहती है उनको बता दिया था" stands uncontradicted by any prior inconsistent statement and has to be read in evidence.

83. It was contended on behalf of the accused that it is highly improbable that an old man would sexually assault the victim in his shop situated in a locality where his family was also residing and people are passing. He further submitted that the IO/SI Pooja had also admitted that it was a small shop and there was no space behind the fridge where the act is alleged to be committed. He also drew attention of the court towards the cross-examination of IO/SI Pooja wherein she admitted that there was no space behind the fridge. It reads as under:

At this stage, photo of the shop of the accused Ex. PW-4/DA-1 is shown to the witness which states that this is the same shop and position of articles/goods is the same when I visited the shop. Victim and her mausi also accompanied us regarding my visit at the shop of accused. It is correct that there is no space behind the fridge rather it is shown in the photograph that there is a small space in front of the fridge. The shop was 6 x 8 feet approximately.



84. The victim in none of her statements stated that accused took her behind the fridge. Rather her stand throughout the investigation and trial was that he took her near the fridge and inserted his penis into her mouth. During cross-examination, when a photograph of the shop was shown to her, she pointed out the positions – herself and the accused – at the relevant spot i.e. near the fridge and not behind the fridge. Yet no suggestion denying the same was given to her. In contrast, the IO was asked if there was no space behind the fridge, to which she replied in the affirmative. This shows the manner in which she had handled the case. Relevant part of the cross-examination of the victim reads as under:

At this stage, another photograph is shown to the witness. She stated that यह फोटो भी दुकान का है. Same is Ex. PW-4/DA-1.

Q- क्या आप बता सकते हो कि जो आपने बोला कि उन्होंने अपने आगे वाले हिस्से को आपके मुँह में डाला, उस वक्त आप कहाँ थे और अंकल कहाँ थे?

Ans. The witness has pointed out two points. Point A is the place where she stated that she was standing while point B is the position of accused.

85. This court has meticulously examined three-linked aspects in detail:

(i). **creditworthiness of the child victim** - having carefully analyzing the victim's evidence, this court is of the view that despite her young age, she was able to explain in detail how she was sexually assaulted by the accused; her version remained



intact even after intensive cross-examination; there was nothing in her evidence which pointed to an ulterior motive for implicating the accused in the rape and her version was also corroborated by the conduct of CW-1 and electronic evidence.

(ii). Conduct of CW-1/daughter-in-law of accused; and

(iii). The chain of events;

and satisfied that the prosecution has successfully discharged the foundational facts required to attract the statutory presumption under section 29/30 POCSO Act. The burden now shifts to the accused to rebut the presumptions.

86. The accused has taken up the plea of false implication. He claimed that victim's family used to take goods on credit basis from his shop but failed to make the payments. When he refused to give goods to the victim's family as a substantial amount had become outstanding, they implicated him in this false case out of grudge by using the child as a pawn. However, he did not examine any witness to support his claim of supplying the goods on credit, nor produced any document (e.g., *bahi-khata*, credit ledger, list of credit transactions etc) to prove the alleged transactions or outstanding dues. If there was really a money dispute, more details of the same ought to have been brought on record. However, apart from his statement made under section 351 BNSS, the accused has not adduced any evidence to bolster his case.



87. It was contended on behalf of accused that the onus of preponderance of probability can be discharged by creating a dent or doubt in the prosecution case though cross-examination of prosecution witnesses.

88(a). Admittedly, the suggestion of such dealings (taking goods on credit basis) was put to the family members of the child victim, but they categorically denied ever visiting the accused's shop, taking goods on credit basis, buying anything from him, or even having any financial dealing with him. Despite extensive cross-examination, no material contradiction or admission was extracted from them that could support the accused's version of the balance of probabilities. The plea, therefore, remains a bare assertion unsupported by any material on record.

(b). Further, the accused's son *Satish* was examined as DW-2. However, he did not state anything about taking the goods on credit basis or about any prior monetary dispute between accused and victim's *mausi*. On the contrary, he stated that on the alleged date at about 07:30 p.m., on hearing commotion, he went to his father's shop and saw 2-3 ladies beating his father. On enquiry, they told him that 'आपके पापा हमारी बच्ची के साथ गलत कर रहे थे'. DW-2's testimony is highly significant. Far from supporting the defence plea of a fabricated allegation arising out of a credit dispute, it lends corroboration to the prosecution's version of sexual assault, leading to commotion/beating by ladies upon the accused at the spot.



(c). Further, the accused in his statement recorded under section 351 BNSS has stated that on the alleged date the victim had come to his shop and asked for toffee but he told her to bring money. It reads as under:

“लड़की उस दिन शाम के समय मेरी दुकान पर आई थी और बोल रही थी की दादा टॉफी दे दो तो मैंने बोला की पैसे ले आ तो मैं दे दूंगा।”

However, in the CCTV footage the victim is seen leaving the shop with something in her hand (which the victim claims to be toffee). Thus, the plea appears to be yet another attempt to create suspicion on flimsy grounds without any supporting material. It does not dislodge the ring of truth in PW-4 evidence.

(d). Furthermore, the accused in his statement recorded under section 351 BNSS referred to the maternal aunts of the victim ('N' and 'Su') as 'कुछ औरतें'. If there was a genuine credit dispute or if they were buying goods on credit basis from his shop, he would have referred them by their names or at least mentioned them in a recognizable relationship with the victim. The defence suggestion, therefore, appears to be an afterthought, an attempt to create a motive for false implication, but falls flat on its face.

89. The victim's evidence was also challenged as being improbable. In particular, it was suggested that it is highly improbable that the accused, a 72 years old man, would have penetrated his penis into the mouth without erection.



90. *Per contra*, it was contended on behalf of the State that for the offence of penetrative sexual assault involving oral (mouth) penetration, potency or erection is not *sine qua non*.

91. Penetration by penis, to any extent, into the month of a child amounts to penetrative sexual assault within the meaning of section 3(a) POCSO Act.

(a). The key elements are:

- (i). penetration (to any extent);
- (ii). by the penis;
- (iii). into the mouth.

(b). However, the Act does not require:

- (i). full erection;
- (ii). rigidity;
- (iii). ejaculation;
- (iv). ability to perform sex/intercourse;
- (v). proof of potency/virility.

92. It is apposite to note that the accused did not dispute his MLC, *Ex. A-4*. Nor did he examine any doctor in his defence to show that an elderly man cannot perform the act of insertion of penis into the mouth. On the contrary, when the learned Prosecutor made oral prayer for his potency test, he opposed the same on the ground of being inconsequential in the case of oral penetration (as in *casu*). Thus, he chose not to elicit any opinion



from the medical jurist on the very point now raised as the cornerstone of the improbability arguments. Having failed to put any question to the doctor on this issue, the defence cannot now urge this court to assume that being incapable to perform sex, he could not have penetrated his penis into the mouth of the child.

93. It was submitted by the learned Prosecutor for the State that unlike vaginal or anal penetration, oral penetration does not require the same level of erectile rigidity. He submitted that a penis in flaccid or semi- flaccid state can still be inserted into the mouth of another person particularly a child who is vulnerable because of his or her age.

94. In the absence of any expert opinion led by the defence, the plea of impossibility remains bare assertion without evidentiary foundation. It is pertinent to note that the plea of the accused is not a mere denial of the prosecution's case but it is an affirmative assertion of a fact, thus, the onus was upon him to prove that being an elderly person he could not have penetrated the penis into the mouth of the child.

95. The learned defence counsel also highlighted defects in the investigation, including delay in registration of FIR, to argue that it casts doubt on the prosecution's story. On the contrary, it was submitted by the learned Prosecutor that the matter was reported promptly to the police and the delay, if any, in registration of the FIR was due to police's inaction. He submitted that since the law



has not fixed any time limit for lodging the FIR, a delayed FIR is not illegal.

96. Learned LSA has placed before the court the family background and the circumstances of the victim. He submitted that victim's mother has expired; father has abandoned the victim and her siblings; two of them are living with one maternal aunt while two are living with another maternal aunt.

97. The Hon'ble Supreme Court has time and again highlighted the reasons and objects of prompt lodging of FIR. The object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstance in which the crime was committed, including other details, as also the names of the eyewitnesses, if any, for delay in lodgment of the FIR results in embellishment which is a creation of afterthought (Ref: *Meharaj Singh vs State of U.P.*, 1995 CRILJ 457).

98(i). In *casu*, the prosecution witnesses have explained the sequence of events leading to registration of the FIR:

- Accused's daughter-in-law informed *Sarajini*, PW-2.
- *Sarajini* informed victim's cousin sister;
- Cousin sister informed her cousin brother *Suraj*;



- Cousin brother telephoned victim's *mausi* 'N', who was at her work place, and asked her to come home.
- *Mausi* on returning home, inquired from the child victim;
- Then they went to the accused's shop;
- Made 112 number call.

(ii). The above sequence shows prompt and spontaneous action on the part of victim's family once the information reached them through PW-2/*Sarojini*. There is no indication of any deliberate delay or concoction of a story. The sequence reflects natural human conduct in a distressing situation. Thus, there was no delay on the part of victim's family in reporting the matter to police. The delay of about one day in registration of the FIR was due to police procedure or inaction and the accused cannot capitalize on it to seek acquittal or benefit of doubt.

(iii). Further, section 19 POCSO Act casts a duty upon certain persons to report the matter forthwith, *inter-alia*, to the local police. In *casu*, the matter was reported promptly on the same day by the victim's family vide GD No. 139-A, *Ex. PW-1/A*. Thus, there was no delay whatsoever attributable to the victim's family. On the contrary, lodging of the DD Entry 139-A is a strong circumstance lending credibility to the prosecution case.



99. The learned defence counsel has also raised a specific contention regarding an alleged discrepancy in the chain of communication preceding the reporting of the matter to the police. He submitted that PW-2 has testified that she communicated the message to victim's cousin sister whereas the prosecution case is that she informed the victim's cousin brother.

100.1. This court has carefully considered the contradiction pointed out by the learned defence counsel relating to the intermediate link in the chain of information dissemination i.e., who told whom. For deciding the issue as it arose, it would be advantageous to refer the testimonies of *Sarojini* and *Suraj*.

100.2. PW-2/*Sarojini* testified having communicated the concern of accused's daughter-in-law to victim's cousin sister. When confronted with her previous statement *Ex. PW-2/D-1* wherein it was not so recorded, she clarified that she indeed told the victim's sister, who in turn might have passed the information to the brother. Relevant part of her examination reads as under: "मैंने तो N की बेटी को बताया था, बेटी ने सूरज को बताया होगा।". *Suraj* has corroborated her. He testified that *Sarojini* aunty had told his cousin sister (N's daughter), who in turn told him.

Relevant part of *Suraj's* examination-in-chief reads as under:

"23.12.2025 को मैं घर पर था। सरोजिनी आंटी मेरी मौसी 'N' के घर पर आई। मैं अपनी मौसी 'N' के घर के बगल में रहता हूँ। आंटी ने मेरी मौसी 'N' की बड़ी बेटियों को बताया कि



'S' के साथ दुकान पर कुछ गलत हुआ है। मैंने यह बात मौसी 'N' को फोन करके बताई कि घर पर आ जाओ। "

Relevant part of his cross-examination reads as under:

सरोजिनी आंटी मुझे नहीं मिली (Vol. मेरी बहन /cousin ने आवाज़ लगाकर मुझे बुलाया कि 'S' भाई यहाँ आ जाओ तो उसने मुझे बताया था)। जब मैं अपनी मौसी 'N' के घर पहुँचा तब सरोजिनी आंटी वहाँ नहीं थीं"

100.3. Having perused their testimonies, this court is satisfied that the core sequence of events has remained consistent and unbroken and the pointed discrepancy raised by the learned defence counsel does not affect the core of the prosecution case of sexual assault of a child and is accordingly, held to be not material.

101. Learned defence counsel also pointed out discrepancy concerning the time. He submitted that PW-2, who was projected as a 'chance witness', has deposed that she met the accused's daughter-in-law at about 08:00 p.m., and thereafter, informed the victim's family. Thus, the information must have been conveyed to victim's family after 08:00 p.m., and not before that. However, the victim's *mausi* 'N' has stated having received the call from her nephew *Suraj* at about 06:00/06:30 p.m. He submitted that if PW-2 met the accused's daughter-in-law at 08:00 p.m., and then conveyed the information to N's family, they could not possibly have informed victim's *mausi* at 06:00/06:30 p.m. - 2 hours earlier. He submitted that this creates doubt about the genuineness of the prosecution case.



102. On the contrary, learned Prosecutor reiterated that she is an independent witness, who told the truth before the court. He also drew attention of the court towards her cross-examination which reads as under:

“मैं गरीब आदमी हूँ। मैंने ये बात सिर्फ इसलिए बताई ताकि बात बढ़ न जाये, कुछ गलत ना हो जाये।“

103(i). PW-2 when questioned about her educational backdrop, she stated that she is illiterate (हम पढ़े- लिखे नहीं है). Similar was the answer of PW-3/N. It reads as under:

Court Q: आप कितना पढ़े लिखे हो?

Ans. मैं पढ़ी लिखी नहीं हूँ।

(ii). Thus, being illiterate and belonging to poor strata of society, they cannot be expected to have an exact sense of time.

(iii). The Hon'ble Supreme Court in the case of **State of UP vs. Krishna Master & Ors**, AIR 2010 SC 3071, dealing with uneducated witness, held as under:

“The basic principle of appreciation of evidence of a rustic witness who is not educated and comes from a poor strata of society is that the evidence of such a witness should be appreciated as a whole.

(iv). The Hon'ble Supreme Court in the case of **Dimple Gupta (minor) vs. Rajiv Gupta**, (2007) 10 SCC 30, held that a person coming from altogether different background and having no education may not be able to give a precise account of the incident. However, that cannot be a ground to reject his



testimony. The court observed that in a case like rape, "it is impossible to lay down with precision the chain of events, more particularly, when illiterate villagers with no sense of time are involved." (Ref: **Vijay @ Chinee vs. State of MP, AIR 2010 SCW 5510**).

(v). Having perused the testimony of PW-2, this court is satisfied that she has given very straightforward evidence which bears a ring of truth and in spite of searching cross-examination her testimony could not be shaken on any vital point. She being an independent witness had no axe to grind against the accused and the defence has failed to show any reason why she should have come forward to depose falsely against the accused, who was stranger to her. When her evidence is read as a whole, she has come across as a truthful and credible witness despite the shortcomings in her evidence.

104. Learned defence counsel has also submitted that the investigating agency had not conducted the investigation properly. He submitted that the victim has alleged repeated sexual assault but the IO did not bother to check the CCTV footage to verify the veracity of her claim; did not analysis the CCTV footage before filing the same in the court; did not check as to how many times victim visited the shop of accused on the date of alleged incident.

105(1). This court has given due consideration to the submission advanced on behalf of accused. Admittedly, the IOs did not undertake a comprehensive analysis of the CCTV footage nor did



they check prior days CCTV footages to verify the victim's claim of repeated sexual assault. This court is reminded of the judgment passed by the Hon'ble Supreme Court in the case of **C. Muniappan vs. State of Tamil Nadu** (2010) 9 SCC 567: (2010) 3 SCC (Cri) 1402 wherein it was held that defect in the investigation by itself does not vitiate the prosecution's case. Relevant para of the judgment reads as under:

"55. There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to the accused. The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence de hors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation. (Vide Chandrakant Luxman v. State of Maharashtra³¹, Karnel Singh v. State of M.P.³², Ram Bihari Yadav v. State of Bihar³³, Paras Yadav v. State of Bihar³⁴, State of Karnataka v. K. Yarappa Reddy³⁵, Amar Singh v. Balwinder Singh³⁶, Allarakha K. Mansuri v. State of Gujarat³⁷ and Ram Bali v. State of U.P.³⁸) 31 (1974) 3 SCC 626 : 1974 SCC (Cri) 116 : AIR 1974 SC 220



32 (1995) 5 SCC 518 : 1995 SCC (Cri) 977 33
 (1998) 4 SCC 517 : 1998 SCC (Cri) 1085 : AIR
 1998 SC 34 (1999) 2 SCC 126 : 1999 SCC (Cri) 104
 35 (1999) 8 SCC 715 : 2000 SCC (Cri) 61 : AIR
 2000 SC 185 36 (2003) 2 SCC 518 : 2003 SCC (Cri)
 641 37 (2002) 3 SCC 57 : 2002 SCC (Cri) 519 38
 (2004) 10 SCC 598 : 2004 SCC (Cri) 2045

(2). Applying the ratio of the above judgment to the case at hand, the omission by the investigating agency to analyze the entire CCTV footage or examine recordings from other days (to verify prior visits by the victim) is undoubtedly a lapse to the IO's negligence. However, this defect in the investigation is peripheral and does not touch upon the core of the prosecution's case, which primarily rests on the victim's direct testimony duly corroborated by accused's own daughter-in-law and independent witness, *Sarojini*.

106. The defence has raised another point regarding a discrepancy about the time of alleged incident. He stated that as per *rukka*, the time of alleged incident was 'noon time' whereas the prosecution has claimed that the alleged incident happened in the evening time.

107. As discussed in the preceding paras, the victim in her statement, which has culminated into the FIR, has nowhere stated the 'time' of the alleged occurrence, yet the IO has mentioned in the column pertaining to time of alleged occurrence as 'समय दोपहर का समय'. This reflects on the conduct of the IO but does not affect the core of the prosecution case. In *casu*, the time was not of the essence of the crime. In any case, the accused has not



disputed the time of alleged incident. In his statement recorded under section 351 BNSS, in reply to question number 17, he stated that 'लड़की उस दिन शाम के समय मेरी दुकान पर आई थी।'

108. Regarding defective investigation, the Hon'ble Supreme Court has time and again held that accused cannot be acquitted solely on account of defective investigation and to do so, would tantamount to playing into the hands of investigating officer if investigation is designedly defective.

(a). Relevant para of the judgment passed by the Hon'ble Supreme Court in the case of **Dhanjay Singh @ Shera & Ors vs. State of Punjab** (2004) 3 SCC 654, reads as under:

"in the case of a defective investigation the Court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective."

(b). Relevant para of the judgment passed by the Hon'ble Supreme Court in the case of **State of U.P vs Hari Mohan & Ors**, AIR 2001 SC 142 held as under:

However, the defective investigation cannot be made a basis for acquitting the accused if despite such defects and failures of the investigation, a case is made out against all the accused or anyone of them. It is unfortunate that no action can be taken against the IO at this stage who, in all probabilities, must have retired by now.



109. It was also contended on behalf of the accused that victim's family demanded money from the accused's family for not lodging the false FIR and when they did not succumb to the illegal demand of money by the victim's family, this false and fabricated FIR was lodged against the accused. He also drew attention of the court towards the testimony of DW-1 and DW-2 and the CDRs which shows communication between them (DW-1 and DW-2).

110(i). In the considered opinion of this court, post-incident demand of money, if any, by the relatives of the victim, does not, by itself, belie the commission of offence.

(ii). Further, DW-1 has denied having demanded any money from the accused's family. He testified that accused's son/DW-2 initiated the calls and offered money as settlement and pleaded not to lodge the FIR considering accused's old age. This is corroborated by the CDRs produced by the accused which shows that his son, DW-2, made the first call to DW-1 at 12:37 a.m., then at 08:35 a.m., and then at 08:37 a.m. For initiating the calls, DW-2 offered the following explanation:

“रात को 12:00 बजे से पहले हमने पापा से बात की की वो लोग पैसे मांग रहे हैं तो पापा ने कहा की मैंने कुछ गलत नहीं किया है तो पैसे नहीं देने। हम रात को लगभग 01:00 बजे तक थाने में रहे थे। फिर मैंने 12:30 के आस-पास 'DG' को कहने के लिए फ़ोन किया था की किस बात के पैसे मांग रहे हो लेकिन 'DG' ने फ़ोन नहीं उठाया। 'DG' जाने से पहले मुझे कह गया



था की अगर पैसों का इंतजाम हो जाये तो मुझे फ़ोन कर देना.....”

The above explanation for initiation of the call does not inspire confidence of the court. If the accused had not committed the crime, there was no occasion or reason for his son, DW-2 to engage in any conversation with DW-1. A prudent man, in such a situation, would lodge a complaint with the police about the demand of money for false implication, instead of personally calling the person allegedly demanding money. Post incident monetary discussion initiated by DW-2 strengthens the prosecution's case of aggravating penetrative sexual rather than creating doubt.

111(i). The learned defence counsel also submitted that all the prosecution witnesses are interested witnesses being family members highly interested in securing the conviction for extraneous considerations.

(ii). *Per contra*, learned Prosecutor submitted that the maternal aunts and cousin brother cannot be labeled as 'interested witnesses' merely due to their relationship with the child victim. He submitted that they were not even aware of the crime initially; the victim did not directly disclose anything to them. On the contrary, the crime came to light through accused's own daughter-in-law, who informed PW-2/*Sarojini*, who, then, in turn informed the victim's family. This, according to learned Prosecutor rules out fabrication or tutoring by the family.



112(a). The Hon'ble Supreme Court in the case of **Satbir Singh & Ors vs. State of Uttar Pradesh**, 2009 (13) SCC held as under:

"26. It is now a well-settled principle of law that only because the witnesses are not independent ones may not by itself be a ground to discard the prosecution case. If the prosecution case has been supported by the witnesses and no cogent reason has been shown to discredit their statements, a judgment of conviction can certainly be based thereupon. Furthermore, as noticed hereinbefore, at least Dhum Singh (PW 7) is an independent witness. He had no animus against the accused. False implication of the accused at his hand had not been suggested, far less established."

(b). In **Namdeo vs State of Maharashtra**, AIR 2007 SCW 1835 = (2007) 14 SCC 150, held as under:

29.....In our judgment, a witness who is a relative of the deceased or victim of a crime cannot be characterised as "interested". The term "interested" postulates that the witness has some direct or indirect "interest" in having the accused somehow or the other convicted due to animus or for some other oblique motive."

113. In *casu*, as rightly pointed out by the learned Prosecutor, the family was not even aware about the crime but the disclosure came from the accused's own daughter-in-law, CW-1, who had no animus (not even suggested during cross-examination) against the accused. In the considered opinion of this court, this mode of disclosure from a close family member of accused (who had no enmity with him) strengthens the prosecution case and rules out false implication by the family of victim.



114. Learned defence counsel argued that neither CW-1 nor PW-2 stated anything about insertion of penis into the mouth of the victim, rather the victim on being assaulted by her *masui* 'N' stated so. He drew attention of the court towards the examination-in-chief of PW-3/N, which reads thus:

“उसके बाद मैंने 'Sh' से पूरी बात पूछी तो उसने नहीं बताया। फिर मैंने उसको 2 थप्पड़ लगाए तो उसने बताया की तीन से अंकल अपनी दुकान में उसको फ्रिज के पीछे लेकर जाते हैं और पैंट खोलकर अपना प्राइवेट पार्ट उसके मुँह में डाल देते हैं.....”

He submitted that the disclosure came after beating, as a result of intimidation, no implicit reliance can be placed on the testimony of PW-4 to hold the accused guilty of penetrative sexual assault.

115. As noticed in the succeeding paras, the accused had created a fear in the mind of victim. This could be one of the reasons why when her *mausi* asked her about the sexual assault or act, she did not disclose the same at first instance. Another reason for not disclosing the same when asked by the *mausi* could be shame or embarrassment. Further, while appreciating the testimony of a child witness, we have to keep in mind the family background also. In *casu*, as stated in the preceding paras, the victim is living with her *mausi* 'N' as her mother has expired and father has abandoned her.

(a). Be that as it may, in the considered opinion of this court merely because the victim revealed the insertion of penis into her



mouth on scolding, does not render her evidence inadmissible. She has consistently stated that accused took her near the fridge and then inserted his penis into her mouth.

116. It was also contended on behalf of the accused that victim is looking happy in the CCTV visuals which behavior is inconsistent with the allegations of sexual assault.

117(a). Even no notice of this argument can be taken by the court in view of the judgment passed by the Hon'ble Supreme Court in the case of *Dalip Kumar @ Dalli vs. State of Uttaranchal*, Criminal Appeal No. 1005 of 2013, decided on 16 January, 2025. Relevant part of the judgment reads as under:

"8.....In this regard, the Supreme Court a Handbook on Gender stereotype (2023) provides as under:

Different people react differently to traumatic events. For example, the death of a parent may cause one person to cry publicly whereas another person in a similar situation may not exhibit any emotion in public. Similarity, a woman's reaction to being sexually assaulted or raped by a man may vary based on her individual characteristics. There is no "correct" or "appropriate" way in which a survivor or victim behaves".

(b)(i). As far as the question of the learned defence counsel regarding the conduct of the victim's aunt that आग जलाकर कौन बैठता है ऐसी situation में ?, is concerned, I do not find any merit in the same. It is well settled that different people react differently to the same situation.



At this stage, it would be apposite to refer a judgment passed by the Hon'ble Supreme Court in the case of ***Leela Ram v. State of Haryana & Anr.***, JT (1999) 8SC 274 wherein it was held as under:

The court shall have to bear in mind that different witnesses react differently under different situations : whereas some become speechless, some start wailing some others run away from the scene and yet there are some who may come forward with courage, conviction and belief that the wrong should be remedied. As a matter of fact it depends upon individuals and individuals. There cannot be any set pattern or uniform rule of human reaction and to discard a piece of evidence on the ground of his reaction not falling within a set pattern is unproductive and a pedantic exercise.

In yet another judgment passed in the case of ***State of Himachal Pradesh vs Lekh Raj & Anr***, AIR 1999 SC 3916 held as under:

The realities of life have to be kept in mind while appreciating the evidence for arriving at the truth.

(ii). Apart from this, we also have to keep in mind that the victim is not the biological daughter of 'N' or 'Su'. The relationship between them is that of maternal-aunt and niece. This material distinction cannot be overlooked. The degree and outward expression of grief, shock or indignation may naturally vary - and often does - depending upon the precise nature of familial bond.



(iii). Thus, merely because the ladies were sitting around a fire and conversing with *Sarajini* does not create doubt the truthfulness of the incident. It was winter time (23rd December) and people normally sit by the fire and this is completely natural.

118. Learned defence counsel submitted that victim's *mausi* 'Su', was examined after the examination of IOs to fill in the lacuna in the testimony of other prosecution witnesses. He submitted that generally the IO is examined after the examination of all the prosecution witnesses.

119. The moot question before the court is: Was the accused taken by surprise and was prejudiced because of examination of 'Su' as PW-11 after the examination of IOs?

120. Admittedly, the *mausi* 'Su' has been cited as a prosecution witness in the list of witnesses annexed with the charge-sheet. Her statement recorded under section 180 BNSS was also part of the charge-sheet and was also supplied to the accused in compliance of section 330 BNSS. Further, no objection was taken when the IOs were summoned before her examination as a prosecution witness. Now, he cannot take the objection at the stage of final arguments. Even otherwise, the cross-examination of the main IO, SI *Pooja* was conducted after the examination of 'Su' and he had full opportunity to cross-examine 'Su' and SI *Pooja*, who had purportedly recorded her (Su's) statement under section 180 BNSS. Hence, the contention of the learned defence counsel regarding sequence of examination of prosecution witnesses is rejected being devoid of any merit.



121. The learned defence counsel has also pointed out contradiction in the testimony of 'N' and 'Su'. He stated that as per 'N', PW-3, when she reached home, his sister 'Su' was already present there. Whereas, as per 'Su', PW-11, they both went home together.

122(i). The above inconsistency pointed out by the learned defence counsel is a minor discrepancy in peripheral detail and not a contradiction affecting core of the case.

(ii). The Hon'ble Supreme Court in the case of **State Of Himachal Pradesh vs Lekh Raj & Anr**, AIR 1999 SC 3916 while dealing with discrepancy and contradiction held as under:

*Discrepancy has to be distinguished from contradiction. Whereas contradiction in the statement of the witness is fatal for the case, minor discrepancy or variance in evidence will not make the prosecution's case doubtful. The normal course of the human conduct would be that while narrating a particular incidence there may occur minor discrepancies, such discrepancies in law may render credential to the depositions. Parrot like statements are disfavoured by the courts. In order to ascertain as to whether the discrepancy pointed out was minor or not or the same amounted to contradiction, regard is required to be had to the circumstances of the case by keeping in view the social status of the witnesses and environment in which such witness was making the statement. This Court in *Ousu Varghese vs. State of Kerala*, [1974] 3 SCC 767, held that minor variations in the accounts of the witnesses are often the hallmark of the truth of their testimony. In *Jagdish vs. State of Madhya Pradesh*, [1981] SCC (Crl.) 676, this Court held that when the discrepancies were comparatively of a minor*



character and did not go to the root of the prosecution story, they need not be given undue importance. **Mere congruity or consistency is not the sole test of truth in the depositions.** This Court again in *State of Rajasthan vs. Kalki & Anr* [1981] 2 SCC 752 held that in the depositions of witnesses there are always normal discrepancy, however, honest and truthful they may be. Such discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence, and the like. Material discrepancies are those which are not normal, and not expected of a normal person.

123. At this stage, learned Prosecutor submitted that not only the IO/SI Pooja but also the doctor and the Magistrate did not perform their duties diligently.

ROLE OF THE MAGISTRATE IN RECORDING THE STATEMENT OF VICTIM UNDER SECTION 183 BNSS:

124. During course of the investigation, the victim was produced before the learned JMFC (NI Act) - 05, West on two separate occasions for the purpose of recording of her statement under section 183 BNSS (*pari-materia* with section 164 of the Code).

(1). On the first occasion, though the victim narrated the incident of being going to accused's shop and insertion of his 'आगे का' in her mouth, she did not mention the time of occurrence. Nor any question whatsoever was put to her by the learned Magistrate to elicit the time or the other relevant



particulars of the incident. Therefore, another application was filed by the SHO concerned for re-recording of the statement. The said application, in turn, was again marked to the same learned JMFC for recording the statement particularly keeping in view the law laid down by the Hon'ble Supreme Court in the case of **R. Shaji vs State of Kerala**, AIR 2013 SC 651. In the said judgment, the Hon'ble Supreme Court has categorically held that:

(i). When a Magistrate performs the duty of recording a statement under section 164 of the Code, he is under an obligation to elicit all information which the witness wishes to disclose.

(ii). The witness particularly if illiterate or rustic may not be aware of the purpose or what material facts need to be stated. Relevant para of the judgment reads as under:

“14..... In a case where the magistrate has to perform the duty of recording a statement under section 164 Cr.P.C., he is under an obligation to elicit all information which the witness wishes to disclose, as a witness who may be an illiterate, rustic villager may not be aware of the purpose for which he has been brought, and what he must disclose in his statements under section 164 Cr.P.C. Hence, the magistrate should ask the witness explanatory questions and obtain all possible information in relation to the said case.

(2). Despite the specific reference to the above judgment, even on the second occasion also, no question was asked by the



learned JMFC regarding the time when the victim went to the shop or any other clarifying questions to bring out complete and material details of the alleged occurrence.

(3). It was contended on behalf of the State by the learned Special Prosecutor that the aforesaid conduct of the learned JMFC constitutes a dereliction of duty, especially in a case involving a child victim of tender age (8 years). He submitted that the omission persisted even after the attention of the learned JMFC was specifically drawn to *R. Shaji's* judgment (supra), which according to him, squarely applies to the case at hand and requires proactive elicitation of details.

(4). I do agree with the learned Special Public Prosecutor for the State. Such lapses defeat the very purpose of recording the statements under section 183 BNSS, rendering the exercise mechanical and may lead to miscarriage of justice. In child sexual abuse cases, the statement under section 183 BNSS assumes importance for corroboration of the child's testimony recorded later under section 33 POCSO Act. However, since the conduct of the learned JMFC, West has already been brought to the notice of the learned Principal District & Sessions Judge, West District vide order dated 16.01.2026, no further order is considered necessary or warranted at this stage.

ROLE OF THE MEDICAL JURIST:



125. As noted above, the victim was taken to SGM Hospital where she was examined by Dr. *Radha Sumal* vide MLC, *Ex. PW-3/C*.

(a). A perusal of the MLC shows that the doctor recorded the victim's consent (refusal) for an internal examination, despite the child being only 8/9 years old.

(b). It is apposite to note that the minimum age for giving valid consent for medical examination is 12 years as per the provisions of sections 27 and 28 of BNS (*pari-materia* with section 89 and 90 of the IPC). The relevant provisions read as under:

27,,,,,,,,,,,,,,,,,,,,,

Nothing which is done in good faith for the benefit of a person under twelve years of age, or of person with mental illness, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person;

Provided that this exception shall not extend to,

the intentional causing of death, or to the attempting to cause death;

the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for



the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

the abetment of any offence, to the committing of which offence it would not extend.

28.....

A consent is not such a consent as is intended by any section of this Sanhita,

if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

if the consent is given by a person who, from mental illness, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

(c). It was contended on behalf of the State that for medico-legal examination in POCSO cases, guidelines (including MoHFW protocols, section 27 POCSO Act and section 184 BNSS) require informed consent from the child, if capable to give consent, or parents/guardians. He submitted that a child below 12 years is generally considered incapable of giving valid consent due to inability to fully understand the nature and consequences of the act, thus, such consent must come from the parents or guardians and not from the child himself. He submitted that recording the eight-year-old child's own



consent/refusal for internal examination was wrong and shows that the medical examination was conducted mechanically. He submitted that since it was a case of oral sexual assault, there was no need to obtain the consent for internal medical examination.

(d). This court is also of the view that in oral sexual assault cases (penile-oral penetration/*fellatio*), the primary focus should be on the oral (mouth) examination rather than vaginal/anal examination. The learned Prosecutor has fairly conceded that the guidelines/protocols do not mandate routine internal examination if the alleged history is purely regarding oral sexual assault, especially in young children where such internal examination can be traumatic and unnecessary if no genital assault is alleged.

(e). It is apposite to note that section 27 of the POCSO Act mandates collection of DNA evidence in all cases of sexual violence *per* section 164-A of the Code. However, the doctor had not collected the oral swabs (from mouth, tongue, cheeks, palate) which could have provided forensic evidence e.g. perpetrator's DNA.

(f). When the doctor was questioned about non-collection of oral swabs, she stated that "*victim had denied for the same and her mausi had also denied for the same* (vol. काफी टाइम हो चुका था)". When questioned further if this reason was recorded in the MLC, she stated that "*I have not mentioned this fact in the MLC*". The explanation appears to be an afterthought, contrived only to wriggle out of the accountability when the omission was confronted during examination in court.



(g). In the considered opinion of this court, failure to collect history-based samples without recording any reason constitutes a lapse in evidentiary preservation.

(h). Further, when the doctor was questioned if she had received any training in handling POCSO cases, she answered in affirmative. Despite receiving training in handling POSCO cases, the MLC was prepared in a routine and mechanical manner.

(i). Further it is onerous duty of a medical jurist to record the history correctly on the MLC as per the narration of the victim, if conscious and oriented. Though as per the MLC, the victim was conscious and oriented, it is conspicuously silent as to who narrated or gave the alleged history. When the court questioned as to who gave her history, she stated, victim 'Sh'. When further questioned as to why she did not mention this fact in the MLC, she casually replied '*I have no idea*'. The relevant part of her examination reads as under:

Court Q: Who exactly provided you the alleged history of the sexual assault that you documented in the MLC ?

Ans. Victim 'Sh'.

Court Q: Why did you not document the name or other identifying details of the person who provided you with the alleged history of sexual assault?

Ans. I have no idea.

The victim when asked if the doctor had spoken to her, she answered in negative. It reads as under:



हॉस्पिटल में डॉक्टर ने मुझे से कुछ नहीं पूछा था।

It is pertinent to note that the MLC records a history materially different from victim's consistent version given to police, Magistrate and in court. The doctor's casual response, when considered alongside the victim's testimony, indicates a lack of diligence and sensitivity in the performance of her duties.

(j). At this stage, it would be advantageous to refer a judgment passed by the Hon'ble Supreme Court in the case of **Dayal Singh & Ors vs State of Uttaranchal**, AIR 2012 SC 3046. Relevant para of the judgment reads as under:

*"16. The Investigating Officer, as well as the doctor who are dealing with the investigation of a criminal case, **are obliged to act in accordance with the police manual and the known canons of medical practice, respectively. They are both obliged to be diligent, truthful and fair in their approach and investigation.** A default or breach of duty, intentionally or otherwise, can sometimes prove fatal to the case of the prosecution....."*

(k). The learned Prosecutor submitted that the manner in which the MLC was prepared shows disregard for child-sensitive, evidence-based protocols under POCSO Act (section 27), section 164-A of the Code and MoHFW, 2014 guidelines. He, therefore, prayed that a copy of the judgment may be sent to the Ministry of Health and Family Welfare as well as to the Ministry of Home Affairs.

ROLE OF THE IO/SI POOJA:



126. Learned LSA submitted that the investigation conducted by the IO/SI *Pooja* smacks of intentional mischief designed to give undue benefit to the accused. He submitted that the victim was questioned vide *Ex. PW-3/D* by the IO on the same day the accused's daughter-in-law, CW-1, was interrogated, which suggests manipulation of answers. He further submitted that answers (of PW-4 and CW-1) are similar in material particulars. He drew attention of the court towards the examination report of the victim and the interrogation report of the daughter-in-law wherein they both stated that victim was arguing/fighting with the accused. However, the victim has categorically denied any fight with the accused and the CCTV footage also does not show any such incident of fight or argument. He submitted that investigation was conducted in such a manner so that the accused can go scot free. He referred the decision of the Hon'ble Supreme Court passed in the case of *Dayal Singh & Ors vs State Of Uttaranchal's* case (supra) which reads as under:

"17. Even the present case is a glaring example of irresponsible investigation. It, in fact, smacks of intentional mischief to misdirect the investigation as well as to withhold material evidence from the Court. It cannot be considered a case of bona fide or unintentional omission or commission. It is not a case of faulty investigation simplicitor but is an investigation coloured with motivation or an attempt to ensure that the suspect can go scot free.

127(i). Admittedly, the *Ex. PW-3/D* and *Ex. PW-9/DX* were prepared on the same day i.e., 06.01.2026 wherein both the



witnesses i.e., the victim and accused's daughter-in-law allegedly stated that "she was fighting with the accused for चीज़". However, before the court, the victim has categorically denied having made any such statement to the police or fighting with the accused for 'cheese'. Her testimony finds corroboration from the electronic evidence in the form of CCTV which does not show or depict any quarrel, heated exchange, altercation or any conduct suggestive of a dispute over toffee or cheese between the accused and victim.

(ii). Further, though Ex. PW-3/D bears the thumb impression of the victim, there is nothing in the said report that it was read over and explained to the victim or her *mausi* 'N'. When the IO/SI Pooja was questioned in this regard, she admitted that there is nothing in the report which may suggest that the answers were read over to the child victim or her *mausi*. Relevant part of her examination reads as under:

Court Q- Did you read over and explained the recorded statement already Ex. PW-3/D to the child/victim ?

Ans. Yes. In the presence of her mausi, I had read over and explained all the questions as well as the answers to the victim.

Court Q -Whether you have mentioned in the statement that you have read over all the questions and answers to the victim in the presence of her mausi?

Ans. No.

Court Q – Why ?

Ans. I had obtained their thumb impression on Ex. PW-3/D?.



(iii). Further, in none of her statements either before the police or before the Magistrate, the child victim stated that the incident happened during noon time, yet the *rukka* finds mention the time of alleged incident as 'समय दोपहर का समय'.

(iv). Furthermore, though the victim stated repeated sexual assault yet, she did not analyse the CCTV footages of previous dates.

128. From the above, the investigation appears to be motivated.

129. In view of the above evidence on record, it has been established beyond reasonable doubt that the accused *Veer Bhan* committed penetrative sexual assault upon the victim, an eight-year-old girl child, by inserting his penis into her mouth on 23.12.2025 in the evening hours inside his shop. As per section 29 POCSO Act, the onus was upon the accused to lead evidence to rebut the presumption but the accused has failed to dislodge the statutory presumption. No cogent evidence has been produced by him in his defence to establish false implication. Accordingly, he is held guilty for the offence falling within the ambit of section 5 (m) POCSO Act punishable under section 6 thereof.

CHARGE UNDER SECTION 65(2) BNS :

130(i). Since the victim was aged about 8 years at the time of commission of offence, charge under section 65(2) BNS was



offence under the special law (POCSO Act), is gender-neutral and for it the victim must be a child (person less than 18 years of age) while the offence of “rape” under general law (IPC) must be against a woman irrespective of her age.”

(iv). Since it has been held that accused had committed aggravated penetrative sexual assault upon the victim (as discussed in the preceding paragraphs) who was a female human being less than 12 years in age on the relevant date, the accused is also held guilty and convicted for the offence on the charge of rape under section 65(2) BSA.

CHARGE UNDER SECTION 351 (2) BNS:

131. The accused is also charged under section 351(2) BNS. It reads as under:

Criminal intimidation.

351. (1) *Whoever threatens by any means, another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.*

Explanation: *A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.*

Illustration: *A, for the purpose of inducing B to resist*



from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

(2) Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

132. It is the case of prosecution that accused committed penetrative sexual assault upon the victim and threatened to kill her if she disclosed the incident to anyone.

133. The victim, PW-4, in her examination-in-chief, though deposed about the sexual assault, did not state anything about the alleged threats. Therefore, the questions which could have been asked in cross-examination were put to her with leave of the court. Under cross-examination by the learned Prosecutor, she stated that 'अंकल ने मुझे ये भी बोला था की अगर किसी को ये बताया तो तुम्हे जान से मार दूंगा।' It is no more *res-integra* that evidence elicited in cross-examination, particularly admissions, form part of the substantive evidence. Her testimony to this effect has gone unrebutted as she was not cross-examined by the accused despite opportunity provided. Even under cross-examination on behalf of accused, she reiterated that 'मैंने अंकल को बोला था की मैं अपने घर पर मौसी को बता दूंगी तो अंकल ने कहा की अगर किसी को बताया तो वो मुझे जान से मार देंगे' Thus, the threats extended by the accused stands proved through the unrebutted admission of PW-4/victim.

CONCLUSION:



134(a). In view of the above discussion, this Court, therefore, is of the opinion that the prosecution has duly proved that on 23.12.2025 in the evening hours, the accused *Veer Bhan* committed penetrative sexual assault upon the victim, an eight-year old girl child, by inserting his penis into her mouth inside his shop near the fridge and thus, committed the offence as contemplated under section 5(m) punishable under section 6 POCSO Act as well as under section 65(2) BNS.

(b). The prosecution has also proved successfully that accused extended threats to the victim and thus committed an offence of criminal intimidation punishable under section 351(2) BNS.

(c). However, the prosecution has failed to prove the repeated acts of sexual penetration.

RESULT:

135. In the result the following verdict is passed:

(a). Accused **VEER BHAN** is held **GUILTY** and **CON-VICTED** for the offence punishable under section 6 POCSO Act and section 65(2)/351(2) BNS.

136. Let a copy of the judgment be transmitted to the worthy Commissioner of Police, Delhi for information and necessary action against the IO, as per law.



137. A copy of the judgment be also transmitted to the Secretary, Department of Health & Family Welfare, Ministry of Health & Family Welfare (MoHFW), Government of India to ensure sensitization program and strict compliance with POCSO protocols in medico-legal examination of child victims.

138. Before parting with this judgment, it is apposite to note that section 72 BNS prohibits disclosure of identity of the victim of offences of rape.

Announced in the open on
23rd day of March, 2026.



This judgment contains 169 pages and each page bear my signature.

[Handwritten signature]

(BABITA PUNIYA)
ASJ (FTSC) (POCSO)-02, WEST
TIS HAZARI COURTS, DELHI

Additional Sessions Judge
कास्ट ट्रेक (पोक्सो अधिनियम)-02 पश्चिम
(FTSC) (POCSO)-02 West
तीस हजारी कोर्ट, दिल्ली
T.H.C. Delhi



(BABITA PUNIYA)
ASJ (FTSC) (POCSO)-02, WEST
TIS HAZARI COURTS, DELHI

अतिरिक्त सत्र न्यायाधीश
Additional Sessions Judge
कास्ट ट्रेक (पोक्सो अधिनियम)-02 पश्चिम
(FTSC) (POCSO)-02 West
तीस हजारी कोर्ट, दिल्ली

Annexure:-

Witnesses Examined on behalf of State:

Sl No.	Prosecution Witness No.	Name of witness	Description
1.	PW-1	ASI Narender	Who attended the DD Entry No. 139-A
2.	PW-2	Sarojini	Chance witness
3.	PW-3	'N'	Victim's maternal aunt
4.	PW-4	'Sh'	Victim
5.	PW-5	HC Rakesh	MHC(M).
6.	PW-6	HC Ravi Rathi	Deposited the exhibits in FSL.
7.	PW-7	Samar Khan	Who provided the CCTV footage alongwith certificate u/s. 63 BSA
8.	PW-8	'S'	Victim's cousin brother
9.	PW-9	SI Pooja	1 st IO
10.	PW-10	SI Manisha	2 nd IO
11.	PW-11	'Su'	Victim's maternal aunt
12.	PW-12	HC Nema Ram	Duty Officer

Witnesses Examined as Court witnesses:

Sl No.	Prosecution Witness No.	Name of witness	Description
1.	CW	Dr. Radha Sumal	Medical



			Jurist who examined the victim
2.	CW-1	Babita	Accused's daughter-in-law

Witnesses examined on behalf of accused:

Sl No.	Prosecution Witness No.	Name of witness	Description
1.	DW-1	'D'	Victim's <i>mausa</i>
2.	DW-2	Satish	Accused's son

Exhibited Documents:

Sl No.	Ex. No.	Description of the Exhibit.	Proved by/attested by.
1.	PW-1/A	DD No. 139-A	PW-1
2.	PW-3/A	Complaint	PW-3, PW-4 & PW-9
3.	PW-3/B	Site Plan	PW-3, PW-4 & PW-9
4.	PW-3/C	Victim's MLC	CW/medical jurist
5.	PW-3/D	Examination report of victim.	PW-9
6.	PW-4/A	1 st statement u/s 183 BNSS	PW-4
7.	PW-4/B	2 nd statement u/s 183 BNSS	PW-4
8.	PW-5/A	Entry in register no. 19	PW-5



9.	PW-5/B & PW-5/C	RC and acknowledgment regarding deposition of exhibits in FSL	PW-5 & PW-6
10.	PW-7/A	Certificate u/s 63 BSA regarding CCTV footage	PW-7
11.	PW-9/A	<i>Rukka</i>	PW-9
12.	PW-9/B.	Arrest memo of accused	PW-9
13.	PW-9/C	Personal Search memo of accused	PW-9
14.	PW-9/D	Disclosure statement of accused	PW-9
15.	PW-10/A	Seizure memo of CCTV footage	PW-10
16.	PW-12/A	Copy of FIR	PW-12




(BABITA PUNIYA)
ASJ (FTSC) (POCSO)-02, WEST
TIS HAZARI COURTS, DELHI1

अतिरिक्त सत्र न्यायाधीश
 Additional Sessions Judge
 फास्ट ट्रैक (पोक्सो अधिनियम)-02 पश्चिम
 (FTSC) (POCSO)-02 West
 तीस हजारी कोर्ट, दिल्ली
 THC, Delhi

OIC

10/11/2022

ADMITTED BY
ORDINARY POST

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Immediate
Court matter

No. Z.28015/143/2013-H(pt)
Government of India
Ministry of Health & Family Welfare
(Hospital-II Section)

Nirman Bhavan, New Delhi
Dated 2nd December, 2022

To,

The Principal Secretaries/Secretaries (Health) of States/UTs

Subject: Judgement dated 31.10.2022 delivered by Hon'ble Supreme Court of India in connection with Criminal Appeal No.1441 of 2022 relating to "Guidelines and Examination Proforma for Medico legal cases of victims of Sexual Violence-reg.

Sir,

I am directed to forward herewith a copy of communication dated 01.11.2022 received from Assistant Registrar, Hon'ble Supreme Court of India alongwith a copy of judgement dated 31.10.2022 delivered by Hon'ble Supreme Court of India in connection with Criminal Appeal No.1441 of 2022 with the request to take appropriate action as per direction of Hon'ble Supreme Court of India.

2. In this context a letter of even number dated 17.04.2014 (copy enclosed) may be referred whereby a copy of "Guidelines and Examination Proforma for Medico legal cases of victims of Sexual Violence," was sent to States/UTs with the request to bring the guidelines to the attention of all hospitals for adoption. The guidelines are available on the website of this Ministry at url <https://main.mohfw.gov.in/sites/default/files/953522324.pdf>.

3. This may be given **top priority**.

Encl:a/a.

Yours faithfully,

(Jitendra Kumar Jangid)
Under Secretary to the Govt. of India
Tele:23061640