



2026:DHC:5696



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved on: 13.07.2026*
Judgment pronounced on: 17.07.2026

+ **CRL.A. 1013/2025**

SHAMSHER ALAM

.....Appellant

Through: Ms. Mansi Yadav, Mr. Himanshu
Anand Gupta, Mr. Karan Jain and
Mr. Shekhar Anand Gupta, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Chetan Panwar, PS Chhawla.
Mr. Pravir Singh, Amicus Curiae.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (the BNSS), the sole accused in Sessions Case No. 290/2019 on the file of the Additional Sessions Judge (Special Court - PoCSO), South West District, Dwarka Courts, New Delhi, assails the judgement dated 28.11.2024 and order on sentence dated 20.03.2025, as per which



he has been convicted and sentenced for the offences punishable under Sections 363, 366, 307 of the Indian Penal Code, 1860 (the IPC) and Section 5(m) read with 6 of the Protection of Children from Sexual Offences Act, 2012 (the PoCSO Act).

2. The prosecution case is that on 03.03.2019 at about 04:00 PM, the accused took PW1, minor girl aged 11 years out of the custody and control of her parents, without their consent, on the pretext that it was his daughter's birthday, with the intention of having illicit intercourse with her and the accused committed penetrative sexual assault upon her in a jungle near Khera Dabar Village Road, New Delhi. He forbade PW1 from disclosing the incident to others and when PW1 cried, he pressed her throat with the intention/knowledge to kill her. Hence, as per the chargesheet/final report, the accused is alleged to have committed the offences punishable under Sections 363, 366, 307 IPC and 6 PoCSO Act.

3. On the basis of Ext. PW1/A FIS/FIR of PW1, given on 04.03.2019, Crime no. 70/2019, Chhawala Police Station, i.e., Ext.



PX1 FIR was registered by CW16 (Charge Witness), Head Constable. PW13 Women Assistant Sub Inspector (WASI) conducted investigation into the crime and on completion of the same, filed the chargesheet/final report alleging commission of the offences punishable under the aforementioned Sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 06.05.2019, framed a Charge under Sections 363, 366, 307, 506 IPC and Section 5(m) read with 6 PoCSO Act against the accused which was read over and explained to him to which he pleaded not guilty.

5. On behalf of the prosecution, PWs 1 to 18 were examined and Ext. A-1, Ext. P3-P4, Ext. PW-1/A-C, Ext. PW-2/A, Ext. PW-3/A, Ext. PW-5/A, Ext. PW-7/A, Ext. PW-8/A-B, Ext. PW-11/A-B, Ext. PW-12/A - C, Ext. PW-13/A-C, Ext. PW-13/A1,



Ext. PW-15/A, Ext. PW-16/A, Ext. PW-18/A-B, Ext. PX/1, Ext. PX2, and Ext. PX3 were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that he was working as a daily wager under the maternal grandfather (*nana*) of PW1 along with PW1's mother. He went to the residence of PW1's maternal grandfather to demand his pending wages. PW1 voluntarily accompanied him, along with another child, to show him the nearby work site where her mother and maternal grandfather were working. PW1 left him after showing the site, which was situated near Khera Road, Big Bazar, Najafgarh, situated at a distance of approximately ten minutes from her house. Thereafter, he met PW1's parents and other labourers at the site, where a heated argument took place regarding his unpaid wages,



following which he left. The accused denied having committed any offences.

7. After questioning the accused under Section. 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

8. No oral or documentary evidence was adduced by the accused.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 28.11.2024 held the accused



guilty of the offences punishable under Sections 363, 366, 307 IPC and Section 5(m) read with 6 PoCSO Act. *Vide* order on sentence dated 20.03.2025, the accused has been sentenced to undergo rigorous imprisonment for a period of 14 years and to fine of ₹10,000/-, and in default of payment of fine, to simple imprisonment for a period of 30 days for the offence punishable under Section 6 read with 5(m) of the PoCSO Act; to rigorous imprisonment for a period of 3 years and to fine of ₹5,000/-, and in default of payment of fine, to simple imprisonment for a period of 15 days for the offence punishable under Section 363 IPC; to rigorous imprisonment for a period of 5 years and to fine of ₹5,000/-, and in default of payment of fine, to simple imprisonment for a period of 15 days for the offence punishable under Section 366 IPC; and to rigorous imprisonment for a period of 4 years and to fine of ₹5,000/-, and in default of payment of fine, to simple imprisonment for a period of 15 days for the offence punishable under Section 307 IPC. The sentences have



been directed to run concurrently. Aggrieved, the accused has preferred this appeal.

10. The learned counsel appearing for the appellant/accused submitted that the trial court erred in placing reliance on the testimony of PW1, despite the same suffering from material inconsistencies and improvements. The learned counsel for the appellant/accused further submitted that, according to the prosecution, PW1 was dropped near her house by an unknown motorcyclist after the alleged incident. It was submitted that the said person was an independent and material witness, as he was the first person to have allegedly seen PW1 immediately after the occurrence and taken her home. However, the prosecution made no effort to trace, identify or examine him, thereby withholding crucial evidence which could have thrown light on the true circumstances of the case.

10.1. It was further submitted that the trial court has erred in failing to take note of the fact that the accused has been



falsely implicated due to the animosity arising out of a financial dispute existing between him and the family of PW1.

10.2. It was further contended that the prosecution has failed to satisfactorily establish the age of PW1. It was submitted that PW2, the Principal of the school attended by PW1, admitted in his cross examination that no document pertaining to the date of birth of PW1 was produced at the time of her admission, nor was any affidavit regarding her date of birth obtained from her parents. It was thus argued that, in the absence of any authentic record supporting the entry in the school register, the prosecution has failed to prove the age of PW1 beyond reasonable doubt.

10.3. Without prejudice to the submissions on merits, the learned counsel canvassed for leniency regarding the quantum of sentence and prayed that the sentence be reduced to a period of 10 years which is the minimum prescribed punishment under Section 6 PoCSO Act (prior to the 2019 amendment)



11. The learned Additional Public Prosecutor submitted that the impugned judgment does not suffer from any infirmity warranting interference by this court as the trial court has duly considered each and every ground raised in the present appeal and, upon an overall appreciation of the materials on record, adjudicated the matter on merits.

11.1. The learned counsel appearing for PW1 submitted that materials on record are sufficient to find the accused guilty of the offences charged against him and that there is no infirmity in the impugned judgment.

12. Heard both sides and perused the materials on record.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

14. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The incident in this case is alleged to have taken place on 03.03.2019 at 04:00 p.m. in



jungle near Khera Dabar Village Road, New Delhi. Ext. PW1/A, the FIS/FIR of PW1 is seen recorded on 04.03.2019, that is, on the next day of the incident. In the FIS/FIR, PW1 has stated thus: “...*I am residing at the address mentioned in a rented house with my parents and my two brothers. I am studying in the 5th standard at the Municipal Corporation Primary Co-educational School, Khera Village, New Delhi. My parents are labourers. Yesterday, on 03.03.2019 at around 4:00 PM, Shamsher uncle (the accused), who works as a labourer along with my mother and father and who frequently visits our house, came to our house and told me, that is, his daughter's birthday, and that my mother has asked him to take me along with him and that my mother would come later with my brother. My younger brother (PW6), who was with me, wanted to come along with us. But uncle told him that he should come later with my mother. Shamsher uncle held my hand and took me away. After walking a short distance, uncle kept telling me that his house was just nearby and saying so, he kept taking me further*



ahead. Uncle took me into a jungle like area. When I asked uncle as to why have he had brought me there, he asked me to keep quiet and said that if I spoke, he would strangle me. Uncle started taking off my clothes. When I started screaming, he pressed my neck (मेरा गला दबाया). Out of fear, I became quiet. Then he took off his jeans and lay down on top of me. He inserted his private part inside my private part. When I started screaming in pain, he choked my throat again. I fainted and lost consciousness. When I regained consciousness, there was no one there. I quickly put on whatever clothes I could see around me and came out into the main road where vehicles were passing by. I stopped a man on a motorcycle who was passing through and asked him to drop me at my house. I told him that I was residing at Krishna Vihar. The motorcyclist dropped me home. I do not know who that motorcyclist was. I disclosed the entire incident to my mother. As it was already night, my mother informed my maternal uncle (Mama) in the morning. He said that we must report the matter to the



police, after which he called the police. Shamsher Uncle has done wrong to me; he should be punished.”

14.1. In Ext. A-1, the 164 statement of PW1, seen recorded on 05.03.2019, PW1 has stated thus:- *“On 03.03.19, uncle came to my house. He frequently visits my house and used to earlier work with my mother. My mother calls him Shamsher. On 03.03.2019, he told me that it was his daughter's birthday and that my mother had asked him to take me along with him, and that my brother and mother would come later. That uncle took me to a jungle-like place and took off my clothes. Then he took off his pants and put his private part into my private part.”*

14.2. PW1, when examined before the court, stood by her case in the FIS/FIR and in her 164 statement. PW1 also identified the accused before the Court. PW1 denied the defence version that about a week before the incident, her parents had a quarrel with the accused, or that they owed him money which led to a dispute. PW1 also denied any quarrel between her parents and



the accused on the night of the incident. PW1 also denied that she had sustained injuries as a result of a fall from a motorcycle or that she had falsely implicated the accused at the instance of her parents.

15. PW6, the brother of PW1, when examined before the trial court, fully supported the prosecution story. PW6 deposed that on the day of the incident their mother had gone for work, at which time the accused came to their house and told them that it was his daughter's birthday. The accused forcibly took PW1 along with him. When he insisted on accompanying them, the accused asked him to come later along with his mother. PW6 admitted that the accused has visited them on earlier occasions, at which time he had asked for money and that his mother paid the same.

16. PW10, the maternal uncle of PW1, also supports the prosecution case. He deposed that at about 08:00-09:00 AM on 04.03.2019, he along with PW1 and her mother had visited the place of occurrence, where they found some clothes belonging to



PW1. They collected the clothes and brought them home, following which the police was informed. The clothes were thereafter handed over to the police, who recorded his statement. PW10 in his cross examination, admitted that he had never met the motorcyclist who had dropped PW1 at her house.

17. PW5, Chief Medical Officer, DDU Hospital, when examined, deposed that on 04.03.2019, he had examined PW1. On examination, he found multiple abrasions and small contusions on both sides of her neck, redness in the left eye, and a small abrasion on the left cheek. He prepared the MLC, which has been marked as Ext. PW5/A. He referred PW1 to the Senior Resident, Gynaecology Department and to an Eye Specialist for further examination. PW5, in his cross examination, deposed that he was unable to comment whether the injuries seen on PW1 could have been caused by a fall from a moving vehicle. He does not recall whether he had asked PW1 as to how she had sustained the injuries. PW5 denied the suggestion that PW1 had informed him



during the medical examination that she had sustained the injuries by falling from a moving vehicle and that the said history was deliberately omitted from the MLC at the instance of the police.

18. PW7, Chief Medical Officer, DDU Hospital, deposed that she had been deputed by the Medical Superintendent to depose on behalf of Dr. Shubhi Gupta, who had left the services of the hospital and whose present address is not known. According to PW7, she is acquainted with the handwriting and signature of Dr. Shubhi Gupta, having seen her write and sign during the course of discharge of her official duties. PW7 identified the handwriting and signature of Dr. Shubhi Gupta in the MLC. She further deposed that the requisite biological samples had been collected and the outer garments of the child, namely, the salwar and sweater had also been collected, sealed, and preserved.

19. PW2, Principal, Kanya Prathmik Vidhyalaya, Basela Rath, Hamirpur, Uttar Pradesh, produced the school records pertaining to the admission of PW1. As per Ext. PW2/A admission



register, PW1 was admitted to Class I on 25.08.2014 *vide* Entry No. 1304. PW2 further deposed that while studying in class III, PW1 left school on 15.07.2016 as her mother informed the school authorities that she had taken admission for PW1 in Delhi, which fact has been recorded in Ex. PW2/A. PW2 further deposed that as per school records, the date of birth of the child is 13.08.2008. PW2 admitted that no documentary proof regarding the child's date of birth had been submitted at the time of the admission. During the course of investigation, he had issued Ext. PW2/B school certificate and handed over the same along with the attested copy of the admission register to the police. PW2, in his cross examination, admitted that at the time of the child's admission in the school, no affidavit from her parents regarding her date of birth had been obtained. The date of birth recorded in the school records was entered on the basis of the information furnished by the parents of the child.



20. As noticed earlier, the accused has been charged with the offences punishable under Sections 363, 366, 307, 506 IPC and Section 5(m) read with Section 6 of the PoCSO Act. Section 363 IPC deals with punishment for kidnapping. Section 361 IPC, which defines kidnapping from lawful guardianship, says that whoever takes or entices any minor under sixteen years of age, if a male, or under eighteen years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, commits the offence of kidnapping from lawful guardianship. Section 366 IPC prescribes that any person who kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, is liable to be punished with imprisonment and fine. The Section also says



that whoever by means of criminal intimidation as defined in the Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be forced or seduced to illicit intercourse with another person is also liable to be punished.

21. To constitute an offence under Section 361 IPC, the prosecution is required to prove that the accused took or enticed a minor female under eighteen years of age out of the keeping of her lawful guardian without the guardian's consent. In the case on hand, the version of PW1, which has remained consistent from the inception of the prosecution case, that is, in Ext. PW1/A FIS/FIR, Ext. A1 Section 164 statement, and her deposition before the Court, establish all the essential ingredients of the offences punishable under Sections 363 and 366 IPC. Nothing material has been elicited in her cross examination to discredit her version. On the contrary, the defence suggestions put to PW1, alleging false implication on account of a monetary dispute between the accused



and her parents or that she had sustained injuries by falling from a motorcycle, have been categorically denied by her and remain wholly unsubstantiated.

22. The aforesaid evidence also establishes the offence punishable under Section 366 IPC. PW1 has consistently deposed that immediately after inducing her to accompany him, the accused did not proceed towards his residence but instead took her to a lonely jungle area, where he threatened to strangle her if she raised an alarm, removed her clothes, removed his own clothes and committed penetrative sexual assault upon her. Such acts of the accused firmly establish that he had kidnapped PW1 in order that she may be forced or seduced to illicit intercourse. The actual commission of penetrative sexual assault immediately after taking PW1 away is the strongest circumstance reflecting the intention with which the accused induced her to leave her house. Thus, the prosecution has proved beyond reasonable doubt that the accused



kidnapped PW1 with the intention contemplated under Section 366 IPC.

23. Section 6 of the POCSO Act provides punishment for aggravated penetrative sexual assault. Section 5(m) classifies penetrative sexual assault as aggravated where it is committed upon a child below twelve years of age. Section 3 of PoCSO Act defines penetrative sexual assault. As per the Section, a person is said to commit "penetrative sexual assault" if he does any of the acts referred to in clauses (a) to (d) of Section 3 PoCSO Act. The factum of penetration has been consistently spoken to by PW1 from the very inception, namely, in Ext. PW1/A FIS/FIR, her statement recorded under Section 164 CrPC and her deposition before the trial court. Her version on this material aspect has remained substantially consistent, and nothing worthwhile has been elicited in her cross examination to discredit her testimony or render it unworthy of reliance. The testimony of PW1 also finds corroboration from the medical evidence. Ext. PW5/A MLC of



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PW1 records findings consistent with recent sexual intercourse. It also records that the hymen was found torn, thereby lending assurance to the prosecution version regarding the commission of penetrative sexual assault. In the absence of any cogent material brought on record by the defence to impeach the credibility of PW1 or to probabalise a contrary version, her testimony inspires confidence and is sufficient to establish the fact of penetration.

24. The learned counsel appearing for the appellant/accused further contended that the prosecution has failed to satisfactorily prove the age of PW1. It was submitted that PW2, the Principal of the school attended by PW1, admitted in his cross examination that no document(s) relating to the date of birth of PW2 had been produced at the time of her admission and that the school had not insisted upon any affidavit or documentary proof regarding the date of birth. It was, therefore, contended that, in the absence of any contemporaneous document supporting the entry, the prosecution has failed to prove the age of PW1.



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25. According to PW2, Ext.PW2/B certificate was issued by the Principal of the school to the I.O. Such a certificate issued by the Principal to the I.O. during the course of investigation is nothing but a statement under Section 161 CrPC. Therefore, it is hit by Section 162 Cr.P.C. The prosecution has to produce the extract of the birth register or the extract of the school admission register or any other similar document to prove the age of the victim. Therefore, the certificate marked as Ext PW2/B, a certificate prepared by the Principal, signed and handed over to the IO, can be treated only as a statement of the Principal given to the IO under Section 161 of Cr.PC, although signed. Ext PW2/B is hit by Section 162 of Cr.PC and is not admissible in evidence and hence is liable to be discarded (See **Sasi v. State of Kerala 2019 KHC 465: 2019 (3) KLT 561**).[See also **Kali Ram v. State of H.P., 1973 KHC 634:1973 (2) SCC 808; Kanu AmbuVish v. State of Maharashtra, 1971 KHC 469: 1971 (1) SCC 503; Datar Singh v. State of Punjab, 1975 KHC 789 : (1975) 4 SCC 272**



and C. Chenga Reddy v. State of A.P., 1996 KHC 1264 : 1996 (10) SCC 193].

26. The date of the alleged incident is 03.03.2019. According to the prosecution, PW1 was a child below the age of twelve years at the relevant time, i.e., 11 years old. To establish her age, the prosecution has relied upon the testimony of PW2 as well as Ext. PW2/A, the extract of the admission register, which records the date of birth of PW1 as 13.08.2008. When PW2 was in the box, it was never put to him by the defence that the entries made in the register are false or that a wrong/false information had been given by the parents relating to the date of birth of the child. Therefore, there is nothing on record to doubt the entry made in the register.

27. As per Ext. PW2/A, the date of birth of PW1 is 13.08.2008. The incident took place on 03.03.2019. If that be so, PW1 was only 11 years old at the time of the incident. The age of PW3 on the date of her examination before the court on 25.07.2019 is seen recorded as 11 years. In Ext. PW5/A MLC, Ext.



PW1/A FIS/FIR as well as in Ext. A1 164 statement, her age is seen recorded as 11 years. In the absence of any material(s) to indicate to the contrary, there is no reason to disbelieve the factum of age based on the entry in the school records.

28. The learned counsel for the appellant/accused further contended that the prosecution failed to trace or examine the unknown motorcyclist who allegedly dropped PW1 near her house after the incident and that such omission is fatal to the prosecution case. I find no merit in the said contention. It is a settled principle of criminal jurisprudence that evidence has to be weighed and not counted. A conviction can safely be founded on the testimony of a sole witness if such testimony is found to be cogent, credible and inspires confidence.

29. In the present case, the said motorcyclist was not a witness to the incident. He merely found PW1 after the incident, while she was on the road, and on her request dropped her near her house. He neither witnessed the accused taking PW1 away nor the



commission of the sexual assault. At best, he could have spoken to the fact that he had dropped PW1 at her residence, which is only a collateral circumstance. The prosecution case rests primarily on the testimony of PW1 who has consistently narrated the manner in which the accused induced her to accompany him, took her to a secluded place and sexually assaulted her. Her version in Ext. PW1/A, her statement under Section 164 CrPC and her deposition before the Court are materially consistent on all material particulars which has been corroborated by the testimony of PW6, her brother.

30. The explanation furnished by the accused in his statement under Section 313(1)(b) CrPC does not inspire confidence and appears to be a mere bald assertion. The defence version when PW1 was in the stand was that her mother owed money to the accused, relating to which a dispute arose resulting in the false implication. But, the accused while questioned under Section 313(1)(b) Cr.P.C. puts forth a new case that the money



transaction was with the grandfather of PW1. PW6, the brother of PW1, asserted in the box that his mother had repaid all dues to the accused. This testimony of PW6 is not seen challenged. There is not even a suggestion seen put that his testimony to the said effect is wrong/ false. Hence, in the absence of any supporting materials, the explanation remains wholly unsubstantiated and does not probabalise the defence put forth by the accused.

31. Coming to the Charge framed under Section 307 IPC against the accused. Section 307 IPC deals with the offence of attempt to commit murder. The essential ingredients required to be proved in the case of an offence under 307 are:- (i) that the death of a human being was attempted; that such death was attempted to be caused by or in consequence of the act of the accused; and that such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as; (a) the accused knew to be likely to cause death; or (b) was sufficient in the ordinary course of nature to cause death, or that the accused



attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause, (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury.

31.1. A person commits an offence under Section 307, when he has an intention to commit murder and, in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. It is to be clearly understood, however, that the intention to commit the offence of murder means that the person concerned has the intention to do certain act with the necessary intention or knowledge mentioned in Section 300. The intention to commit an offence is different from the intention or knowledge requisite for constituting the act as that offence. The expression "whoever does an act with such intention of knowledge and under such circumstances that if he, by that act, caused death, he would be



guilty of murder" in Section 307, simply means that the act must be done with the intent or knowledge requisite for the commission of the offence of murder. The expression "by that act" does not mean that the immediate effect of the act committed must be death. Such a result must be the result of that act whether immediately or after a lapse of time. (**Om Parkash v. State of Punjab**, 1961 SCC OnLine SC 72).

31.2. Further, to justify a conviction under Section 307, it is true that it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of such injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases be ascertained without reference at all to the actual injury. What the Court has to see is whether the act, irrespective of its result, was done with the intention or knowledge



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and under such circumstances mentioned in the Section. (See **Hari Mohan Mandal v. State of Jharkhand**, 2004 (12) SCC 220)

32. A perusal of Ext. PW5/A MLC of PW1 shows injuries on her neck, which lend corroboration to her version that the accused had tried to choke/ press her neck while committing the penetrative sexual assault. This by itself is not sufficient to attract the offence punishable under Section 307 IPC. What requires determination is whether the act was committed with the intention or knowledge of causing death, which is the *sine qua non* for constituting an offence of attempt to murder. In the present case, the materials on record do not indicate such intention.

33. It was submitted by the learned counsel for the accused that, if at all the crime be proved, given the aforesaid reasons and young age of the accused, i.e., 23 years old at the time of incident, the sentence be reduced to the statutory prescribed minimum punishment which is 10 years. As per Section 6 PoCSO Act (prior to the 2019 amendment w.e.f. 16.08.2019), the offender is liable to



be punished with imprisonment which shall not be less than 10 years but which may extend to life imprisonment. Therefore, the trial court was empowered to either award a sentence for 10 years or life sentence and if it was for a fixed period, it could have been not more than 14 years. Here, the trial court has awarded the maximum, that is, 14 years and has not given cogent reasons for awarding the maximum sentence and so, the sentence may be reduced, argued the learned counsel. It was also submitted that the accused has no criminal antecedents, and therefore the said circumstance deserves to be considered as a mitigating factor while determining the quantum of sentence.

34. In the facts and circumstances of the case, I find awarding a sentence of 12 years for the offence contemplated under Section 5(m) punishable under Section 6 PoCSO Act would serve the ends of justice. The conviction and sentence for the offence under Section 506 IPC is confirmed.



35. In the result, the appeal is partly allowed. The conviction and sentence of the accused for the offences punishable under Sections 363, 366 IPC is confirmed. The appellant/ accused is acquitted under Section 235(1) Cr.P.C. for the offence punishable under Section 307 IPC. The conviction under Section 6 PoCSO Act is also confirmed. However, the sentence of rigorous imprisonment of 14 years imposed for the offence punishable under Section 6 PoCSO Act is modified to a period of 12 years (twelve years).

36. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JULY 17, 2026

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