



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 28.09.2026

Pronounced on : 13.10.2026

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CNR No. DLHC010355332026

+ CRL.A. 738/2026 & CRL.M.(BAIL) 1467/2026

SURAJ SINGH @ LAALA

.....Appellant

Through: Mr. Nitin Saluja, Adv. (DHCLSC)
and Mr. Utsav Singh, Adv.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Meenakshi Dahiya, APP.
SI Urvashi, P.S. Sonia Vihar.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been filed under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), challenging the Judgment dated 13.04.2026 and the Order on Sentence dated 20.04.2026 passed by the learned ASJ (SC-POCSO)-02, North-East District, Karkardooma Courts, Delhi, in **SC No. 87/2020** arising out of **FIR No. 88/2020** registered at PS Sonia Vihar.

FACTUAL MATRIX

2. The case of the prosecution is that on 12.04.2020, at about 09:10 PM, a PCR call vide DD No. 44A was received at PS Sonia Vihar. The caller



stated that his six-year-old daughter had been subjected to a wrongful act by a person residing in the neighbourhood and requested police assistance. The call was marked to SI Jagpal (PW-4), who, along with Ct. Hanuman Prasad (PW-5), reached the place of incident, i.e. H. No. 4 (complete address withheld). On learning about the incident, SI Jagpal called SI Pooja (PW-6) to the spot. SI Pooja met the victim, aged about six years, and her mother. She was also informed that the accused, Suraj Singh @ Laala, had cut the vein of his hand and had been taken to JPC Hospital by Ct. Hanuman.

3. The mother of the victim gave a complaint to SI Pooja. She stated that she was residing with her husband, two children, mother-in-law, brother-in-law, his wife and their two children. Her husband was working in a printing press and she was a homemaker. She stated that at about 07:30 PM, her daughter, who was studying in Class II, told her that the accused, Suraj Singh @ Laala, had touched her private parts and kissed her on the lips. She thereafter informed her husband, who made a call to the police. She further stated that her daughter used to visit the house of the accused to play and had gone there on the date of the incident as well. According to her, the accused had forcibly touched the private parts of her daughter. On the basis of the complaint and the MLC of the victim, an FIR was initially registered under Section 354A IPC and Section 8 of the POCSO Act.

4. During investigation, the statement of the victim was recorded under Section 164 Cr.P.C. She reiterated the allegations made in the complaint. The age documents of the victim were obtained from her school, according to which her date of birth was 06.04.2014. The site plan of the place of



incident was also prepared.

5. After his medical examination, the accused was arrested and produced before the Court, whereafter he was sent to judicial custody. The statements of the witnesses were recorded. Subsequently, Sections 363 and 10 of the POCSO Act were added to the FIR and the chargesheet was filed on 04.06.2020.

6. On 04.06.2020, cognizance of the offences under Sections 354, 354A and 363 IPC and Sections 8 and 10 of the POCSO Act was taken by the learned Trial Court.

7. The accused was granted bail during the COVID-19 pandemic. After his release, the requirement under Section 207 Cr.P.C. was complied with and copies of the chargesheet and other documents were supplied to him on 14.09.2020.

8. Vide order dated 14.10.2022, the learned Trial Court framed charges against the accused for the offences punishable under Sections 363 and 354 IPC and Section 10 read with Section 9 of the POCSO Act. The accused pleaded not guilty and claimed trial.

9. In order to prove its case against the accused, the prosecution examined 06 witnesses.

“A) PW-1/Victim ‘I’ was examined-in-chief on 31.05.2022 and 20.08.2022. In her testimony recorded on 31.05.2022 entered into the witness box on 31.05.2022 and deposed that on 12.04.2020 she was studying in second class and she plays with her friends. PW-1 further deposed that she plays outside her house, but with her best friends. She plays inside her house and she knows Laalachacha as he used to live on the left side of her house. PW-I further



deposed that she used to go outside to play in the evening at about 5:00 to 6:00 pm and after playing she would return to her house at about 8:00 pm. PW-1 further deposed that while she was studying in second class and went out to play. The said Laalachacha did bad touch with her in the manner that he kissed her on her lips and also squeezed her stomach below the breast area and apart from the said bad touch. The said Laala chacha did not do any other bad touch with her on the said day.

PW-1 further deposed that after returning to her house, firstly she told her mother about the bad touch done by the said Laalachacha and thereafter. she told her father about the same and her father alter calling the said Laala chacha at her house scolded him and thereafter called the police. She further deposed that she alongwith the police and her parents visited the hospital and after the incident one day she came to the court. where judge madam made inquiry from her. She further deposed that she can put her signatures in Hindi as well as English language and while she was studying in second class. she could write her name in English. PW-I was shown and read over her statement recorded under Section 164 Cr.P.C. (i.e. Mark-A) on which although she identified her signatures at Point X. however she deposed that she has not made the said statement before the judge madam as she did not ask anything to me. She correctly identified the accused as Suraj Singh@ Laala.

PW-1 was further examined-in-chief on 20.08.2022, wherein she deposed that while kissing her on her lips. Laala chacha put her in his lap. She further



deposed that she does not remember if Laalachacha also pressed that part of her body which is used for urination. She also deposed that after appearing before the Judge madam she narrated the incident committed by Laala chacha with her.

In her cross-examination by the Ld. Defence Counsel, she admitted that on the date or incident. in the evening. a quarrel took place between her father and the accused. She further deposed that she does not remember if she told the police about the quarrel. She further deposed that she does not remember if she told the judge aunty about the quarrel between her father and the accused. She denied the suggestion that her mother refrained her to disclose about the said quarrel to the police. She further denied the suggestion she told the police and the judge aunty, whatever she was tutored by her mother to tell them. She further denied the suggestion that no such incident as alleged by her took place.

B) PW-2/Smt. "N" (Mother of the Victim) “entered into the witness box on 09.10.2023 and deposed that she is a house-wife and she is a Graduate and she has one son and one daughter (victim) and her victim daughter ‘I’ is elder and at present she is 10 years old and studying in class 5th. She further deposed that somewhere on 11/12.04.2020, around 06:00-07:00 PM, she was working in her house and her victim daughter alongwith other children of the street were playing outside the house in a vacant plot where the accused used to park his TSR. She further deposed that after sometime her victim daughter came home and informed her that



Suraj@ Laala Chacha has done bad touch with her. In response to Court query as to the meaning of bad touch. she deposed that the victim told her that the accused has pressed her private part (vagina) and kissed on her lips.

PW-2 further deposed that she immediately told the same to her husband and her husband then called the accused suraj@ LaalaChacha at home and made enquiries about the same from him. She further deposed that the accused told her husband that he regularly plays with the children including the victim and also make them sit in his lap however he had no wrong intention to do any Wrong act With the victim child and the accused also apologized before her and her husband and he returned back to his house. She further deposed that thereafter she called the PCR and after sometime PCR arrived but they did not visit their home or made any inquiries from them but they came to know that the police had taken the accused to hospital since accused had cut his hand and then she, her husband and her victim daughter went to PS Sonia Vihar and at the PS she had given a complaint i.e. Ex. PW-2/ A.

PW-2 further deposed that thereafter police took her, her victim daughter and her husband to JPC Hospital where her daughter was medically examined and vide emergency registration card and MLC on which she identified he signatures and proved the same as Ex. PW-2/B and Ex. PW-2/C respectively. She further deposed that she had also shown the place of incident to the police and the police had also prepared a rough site plan of the same in her presence i.e. Ex. PW-2/D. She further



deposed that after few days. she alongwith her husband and victim daughter had come to the court on the instructions of the IO and the statement of the victim daughter was recorded in the court. She correctly identified the accused as Suraj Singh @ Laala.

On being cross-examined on behalf of the accused, PW-2 deposed that she does not know what day of the week was on 11/12.04.2020. She admitted that at the time of incident Corona Pandemic was pervasive and on the date of the incident it was a complete lock-down due to corona pandemic. She further admitted that her daughter/victim used to visit the house of accused. prior to the alleged incident. She also admitted that prior to the alleged incident no quarrel had taken place with the accused. She further deposed that no quarrel had taken place on the date or incident between the accused with her husband. She denied the suggestion that a quarrel had taken place on the date of incident between the accused and her husband and for the same reason the neighbours had visited her house however she volunteered that the neighbours had come on the next day of the incident to convince them (her and her husband) not to lodge an FIR against the accused. She denied the suggestion that her daughter/victim had not disclosed to her that accused touched her private part (vagina).She further denied the suggestion that she had tutored the victim to state the facts which she had disclosed to the police or to the Judge Madam or before the court.

In her further cross examination, PW-2 deposed that she had called on 100 number at about 08:00



PM and at that time her husband was present at the house. She further deposed that when the victim had narrated the incident to her, her husband was at home at that time however she volunteered that she asked her daughter to narrate the incident to her husband too. She further deposed that she had stated to the police that "I asked my daughter to narrate the incident to my husband too", however she was confirmed with her recorded. She further denied the suggestion that no such incident took place or the accused had been falsely implicated in the present case."

C) PW-3/Sh. "S" (Father of the Victim)

"entered into the witness box on 09.10.2023 and deposed that he is a Graduate and he owns a business or printing press and he has one son and one daughter (victim) and his victim daughter "I" is elder who is 10 years old and studying in class 5th. He further deposed that somewhere in on 10/11.04.2020, around 07:00-08:00 PM. he came back to his house from neighbourhood and his wife informed him that the accused Suraj Singh @ Laalahas done some bad act (misbehave) with his victim daughter. He further deposed that he enquired from his victim daughter and she told that Laala uncle had kissed her and touched her private parts (vagina). He further deposed that the victim had told him that the incident had happened in a vacant plot where she was playing with other children and in the said vacant plot he usually park his car. however, since the said plot is lying vacant therefore people from the neighbourhood also park their vehicle if they find space. He further deposed that the said incident had happened around 07 :00-08:00 PM and



thereafter he called the accused Suraj @ Laala Chacha who is their neighbor at home and made enquiries about the same from him. however, the accused did not say anything and remained silent and then he returned back to his house. He further deposed that thereafter he called at PCR number and after sometime the PCR arrived and made inquiries from him and his wife and then they asked them to accompany them to the PS.

PW-3 further deposed that he alongwith his wite and victim daughter went to PS Sonia Vihar alongwith the police officer and the police officer recorded the complaint of his wife while he as standing outside the room. He further deposed that thereafter he alongwith his wife and victim daughter were taken to JPC hospital where his daughter was medically examined and they returned back to their home around 02:00 AM. He further deposed that on the next day, he. his wife and victim daughter came to the court at the instructions of the IO and the statement of the victim daughter was recorded in the court. he further deposed that the police had arrested the accused vide arrest memo i.e. Ex. P-6 in his presence and the accused was also personally searched vide memo i.e. E.x. P-7. He Correctly identified the accused as Suraj Singh @ Laala.

On being cross-examined on behalf of accused. PW-3 deposed that he does not know what day of the week was on 12.04.2020. He admitted that at the time of incident Corona Pandemic was pervasive. he further admitted that on the date of the incident it was a complete lock-down due to corona pandemic. He further deposed that at the time of incident. he



was running a printing press at Vishwas Nagar. Shahdara and there were no fixed working hours. he further deposed that on the date of incident. his office was closed due to Corona Pandemic. He further deposed that at the time of incident. he was not at home but he was present in his neighborhood however he volunteered that he came around 07:30 PM and the incident had happened around 10-15 minutes prior to the time when he reached home. He further deposed that his wife had told him about the incident and thereafter his victim daughter told him about the incident. She admitted that his wife had told him that the accused had touched the private part (vagina) of the victim. he further admitted that his daughter/victim used to visit the house of accused. prior to the date of incident however he volunteered that she used to visit once or twice in a week. He further deposed that the family of accused comprises of his parents. his two brothers and their wives and children. He further deposed that prior to the date of incident. the victim had not made any complaint against the accused and he and his family never doubted the demeanor of the accused or that the accused had any ill intention towards his victim daughter. he admitted that prior to the date of incident no quarrel had ever taken place between him and the accused. He denied the suggestion that a quarrel had taken place on the date of incident between him and the accused regarding car parking. he further denied the suggestion that neighbours had come in between and tried to pacify the altercation.

In his further cross-examination, he deposed that after coming to know about the incident, he called the PCR. He further deposed that he does not



remember the exact time when he called the PCR. He further denied the suggestion that his victim daughter had not disclosed to him that accused had touched her private part (vagina). He further denied the suggestion that he had tutored the victim to state the fact which she had disclosed to the police or to the judge madam or before the court. He further denied the suggestion that no such incident took place or the accused had been falsely implicated in the present case. He further denied the suggestion that even as on date the victim visits the house of the accused.”

D) PW-4/St Jagpal Singh

“entered into the witness box and deposed that on 12.04.2020, he was posted as SI at PS Sonia Vihar and he was on emergency duty from 08:00 PM to 08:00 AM and at around 09:15 PM, he received DD No. 44-A and thereafter he alongwith Ct. Hanuman Prasad went to H. No. 4 complete address withheld) where they met the victim and her parents. He further deposed that after coming to know about the incident he called PSI Pooja at the spot and he also came to know that the accused had himself caused injury on his hand and Ct. Hanuman Prasad took the accused to JPC Hospital on PCR van. He further deposed that after some time, PSI Pooja came to the spot and alter initial inquiry. she made call on 181 number and since he was marked another DD so he left the spot to attend the same. He correctly identified the accused as Suraj Singh @laala.

On being cross-examined on behalf of accused. he deposed that he alongwith Ct. Hanuman Prasad reached at the house of victim at about 9:30PM and



neighbours were also present at that time. He further deposed that SI Pooja did not make any inquiries from any neighbor in his presence however he volunteered that when SI Pooja reached at the spot. he briefed her and then he left to attend some other DD which was marked to him. he further deposed that Ct. Hanuman Prasad had taken accused Suraj to hospital in his presence at around 9:30PM only through PCR vehicle and no one from the family of accused or neighbor had accompanied the accused to hospital He further deposed that he does not know whether the family members of accused were present at the spot at that time. He denied the suggestion that he had not visited the place of incident. He further denied the suggestion that he did not participate in the investigation and my statement was recorded by the IO at the PS.”

E) PW-5/Ct. Hanuman Prasad

“entered into the witness box and deposed that on 12.04.2020. he was posted as Constable at PS Sonia Vihar and he was on emergency duty from 8:00pm to 8:00am with SI Jagpal Singh and at around 9:15 PM, a PCR call vide DD no. 44A was received by SI Jagpal Singh and then he alongwith SI Jagpal Singh went to place of incident i.e. H No. 4 (complete address withheld) and when they reached at the spot they found the victim as well as her parents and some neighbours and one boy namely Suraj Laala, was present with his family members. He further deposed that the parents of the victim informed them that Suraj@ Laala had done ched-chad with the girl child and he has also cut his right wrist and he was bleeding and since, the matter was related to sexual assault upon a girl child. therefore, SJ Jagpal called SI Pooja from the



PS. He further deposed that thereafter, on the direction of SI Jagpal, he took the accused Suraj@ Laala to JPC Hospital where he got medically examined vide MLC No. 2402/2020 at around 10:00 PM and thereafter the doctor gave the MLC whereafter. he alongwith Suraj @Laala returned back to PS and he handed over the custody and MLC to SI Pooja

On being cross-examined on behalf of accused, he deposed that the accused was residing adjacent to the house of victim and the house of victim and accused was situated at around 1.5 kms from the P.S. He further deposed that he and SI Jagpal Singh reached at the place of incident at around 9:30PM through his own bike. He admitted that many neighbours were present when he and SI Jagpal Singh reached at the place of incident. He further deposed that when he had taken the accused to JPC Hospital, none of his family members had accompanied them. He Further deposed that SI Jagpal had called SI Pooja in his presence and SI Jagpal only made oral inquiries from the neighbours but did not record anyone statement in his presence. He further deposed that SI Pooja did not reach at the place of incident in his presence since he had already left for hospital with the accused. He denied the suggestion that he had not participated in the investigation. He further denied the suggestion that his statement and signature were taken by the IO at the PS.”

F) PW-6/SI Pooja

“entered into the witness box and deposed that on 12.04.2020, she was posted as SI at PS Sonia Vihar and at around 9:30pm when she was present at her



home. she received a call from DO and he informed her that SI Jagpal had received a PCR call regarding sexual assault with the minor girl child and she was accordingly summoned to the PS. She further deposed that at around 10:30PM. she reached at the PS and she alongwith PCR officials went to the place of incident i.e. Rampal Chowk. Sabhapur. She further deposed that after reaching at the place of incident, she saw that SI Jagpal. victim 'I' and the parents of victim were present and then SI Jagpal Singh informed her that the accused Suraj@ Laala had cut his wrist and Ct. Hanuman Prasad had taken him to hospital. She further deposed that she made inquiries from the victim but she was unable to disclose anything, therefore, she called the CIC Counsellor and at around 12:00 midnight, CIC counsellor also reached at the place of incident and she counselled the victim. She further deposed that in the presence of counsellor, the victim told that she had gone to the house of Suraj@ Laala Chacha and then Suraj@ LaalaChacha has made her sit on his lap and kissed on her lips and also touched her private part (susu wali jagah) and when she started crying then he left her and she returned back to her house and then she informed everything to her mother and her mother informed to her father. She further deposed that the counsellor made a report and handed over the same to her i.e. Ex.PW6/ A.

PW-6 further deposed that she took the victim and her mother to JPC hospital Where the victim Was medically examined vide MLC no. 207/2020 and the victim told aforesaid facts to doctor as well and the victim and her mother had refused for internal medical examination. She further



deposed that thereafter. they returned back to the house of victim and she recorded statement of mother of victim i.e. Ex.PW2/A. She further deposed that thereafter. she returned back to PS and prepared the tehrir and gave it to the DO for registration of FIR i.e. E.x.PW6/B and thereafter. the FIR was registered by the DO and he handed over the copy of the same to her. She further deposed that on the same day i.e. 13.04.2020, at around 10:00 AM, she again went to the house of victim and recorded the statement of victim in qucstion- answer form and also recorded the statement of father of victim and supplementary statement of the mother of victim. She further deposed that at the instance of mother of victim. she prepared site plan i.e. Ex.PW2/D and thereafter she left the house of victim and told the father of victim to come to PS. She further deposed that when she reached at the PS. Ct. Hanuman Prasad alongwith accused Suraj@ Laala were also present and he handed over the MLC of accused as well as the custody of accused to her.

PW-6 further deposed that while she was interrogating the accused, the father of victim also reached at the PS and the accused was arrested vide arrest memo i.e. Ex. P-6 in the presence of father of victim and his personal search was also carried out vide memo i.e. Ex. P-7. She further deposed that she also recorded disclosure statement of accused i.e. Ex.PW6/C and she also recorded statement of Ct. Hanuman Prasad and supplementary statement of father of victim. She further deposed that thereafter, she alongwith Ct. Ankit brought the accused to Karkardooma Court and produced him before concerned court and he was sent to JC. She further



deposed that thereafter, she returned back to PS and recorded the statement of SI Jagpal Singh. She further deposed that on 14.04.2020, she got the statement of the victim recorded u/s 164 Cr.P.C by moving an application i.e. Ex.PW6/D. PW-6 further deposed that on 20.04.2020, she collected and verified the age documents of the victim from her school and as per the same. DOB of victim is 06.04.2014 and she also recorded statement of Manager of her school and seized the age documents of victim i.e. Ex. P-2. Ex. P-3 and Ex. P-4 vide seizure i.e. Ex.PW-6/E. She further deposed that during investigation, she collected the PCR form i.e. Ex. P-9 and DD no. 44A i.e. Mark X. She further deposed that after completion of investigation, she filed charge-sheet. The identity of the accused was not disputed during her testimony.

On being cross-examined on behalf of accused, she deposed that she reached at the house of victim at around 11:00PM on 12.04.2020. She further deposed that when she reached at the spot, none of the neighbours were present and there were 3-4 other houses apart from the house of victim and the accused in the said street. In response to court query, she deposed that when she reached at the place of incident, victim alongwith her parents, SI Jagpal Singh and family members of accused were present however she did not make any inquiries from any neighbor after she reached at the place of incident. She further deposed that no CCTV camera was found installed near the house of victim or the accused and the house where the victim was residing was constructed upto 2 floors and she was residing with her family on the second floor. She



further deposed that she did not enter into the house of accused since the place of incident was the open area outside the house of victim and the accused. She admitted that relatives of victim were residing on the first floor on the same building where the victim was residing however she did not make any inquiries from the relatives of victim. She further deposed that father of victim had called the PCR at around 9:00 PM. She further deposed that she did not get the victim tested for COVID-I 9 at the time or medical examination. She further deposed that she has never made any inquiries from the relatives of victim or any neighbor in the present case. In her further cross examination, she denied the suggestion that she has not fairly investigated in the present case. She further denied the suggestion that the victim had not levelled any allegation of sexual assault in her presence as stated by her. She further denied the suggestion that the accused has been falsely implicated by the parents of victim. She further denied the suggestion that since no such incident as recorded by her in Ex.PW2/A had happened therefore, she had not inquired either the relatives of victim or neighbours of said vicinity.”

10. The statement of the accused under Section 313 Cr.P.C. was recorded on 22.01.2025, wherein he denied all the incriminating evidence put to him. He stated that he had been falsely implicated in the present case due to the enmity between him and the father of the victim regarding the parking of his TSR in a vacant plot, where the accused also used to park his vehicle. The accused opted to lead defence evidence and examined his neighbour as a defence witness. The defence witness examined before the learned Trial Court is quoted hereinbelow:

**“DW-1/Hridya Kumar Ghosh**

“entered into the witness box and deposed that he has been residing at H. No. 12. Gali No. 1. Khasra No. 520, near MCD School. Sonia Vihar since 2010 and somewhere in the year 2012-13, the accused alongwith his family also came to reside in his neighborhood and thereafter around one year. the victim and her parents also came to reside in the neighborhood. he further deposed that the victim and the house of the accused are adjacent to each other. He further deposed that on 12.04.2020, at about 05:00 to 05:30 PM. he heard some noises between his neighbours namely 'S' (father of the victim) and Laala and found that they were having a quarrel on parking issue. He further deposed that at around 07:30 PM. he again came outside and saw that one police van was parked near the house of the accused and some neighbours were also present there and thereafter, he reached at the spot and saw that the accused had cut his wrist and blood was oozing out and thereafter police official took him to the hospital in the police van. He further deposed that he was never called at the PS by the police.

On being cross-examined by Ld. APP for the State, he deposed that he has a jewelry shop at Karol Bagh and he is running the said shop since 2005-06 and he leaves for his shop at around 11:00 AM and returned back at around 10:00 PM and Mondays are weekly off. He further deposed that on 12.04.2020. he was at home since his shop was closed due to Covid-19 pandemic and the accused was residing in a house next to his house. He further deposed that his family and the family of the accused are on visiting terms however he volunteered that mostly on Mondays. some time he and his family or



the accused and his family visit each other and they also meet in the street. he further deposed that he had come to know on 12.04.2020 that the accused was taken by the police due to some quarrel between the accused and the father of the victim. On being specifically asked as to whether he came to know at the spot that the accused had committed any wrongful act with the victim he replied in negative however he volunteered that after few days, he came to know that the accused has been sent to Jail for committing some wrongful act with the victim.

In his further cross-examination, he deposed that he did not visit the police station nor made any complaint to the police or any authority to inform them that on the date of incident, the accused and father of the victim had quarrel on parking issue and no incident of any wrongful act with the victim was committed by the accused. He further deposed that at present also. accused is residing at the same house. He denied the suggestion that since accused is his friend therefore. he is deliberately not disclosing the true facts in order to save the accused from legal punishment.”

11. Vide impugned judgment dated 13.04.2026, the learned Trial Court convicted the accused and held as under:

“82. Although the testimony of the victim, as noted above, is sufficient enough to bring home the guilt of the accused however a careful perusal of the testimony of the parents of the victim also corroborates the version of the victim that on the date of incident the accused had kissed on the lips of the victim and touched her private part. It is a



matter of record that the accused was the neighbor of the victim and the victim used to visit his house and thus the victim posed complete trust in the accused and it is difficult to believe that one fine day, the victim would level false allegations against the accused of kissing on her lips and touching on her private part and thus the acts of the accused clearly amounts to assaulting the victim to outrage her modesty and commission of aggravated sexual assault.

83. *In the overall facts, circumstances and the testimony brought on record, this Court is of the considered opinion that the prosecution has successfully beyond reasonable doubt all the charges framed against the accused and the accused has failed to rebut the presumption envisaged under Section 29 and 30 of the POCSO Act and as such accused Suraj Singh @ Laala is liable to be convicted of the offences/charges u/s 354 IPC and Section 10 of the POCSO Act.*

CONCLUSION

84. *Accordingly, the accused Suraj Singh @ Laala is acquitted of the charge u/s 363 IPC however he stands convicted for the charges u/s 354 IPC and Section 10 of the POCSO Act.”*

12. Consequently, vide Order on Sentence dated 20.04.2026, the learned Trial Court sentenced the accused and held as under:

“19. *Section 42 of POCSO Act does not take in its ambit Section 354 IPC however considering the provisions of Section 71 of IPC as well as 42 of*



POCSO Act, the convict need not be separately sentenced for the offences under Section 354 IPC since Section 10 of the POCSO Act carries higher punishment and thus the convict be sentenced for the offences under Section 10 of the POCSO Act.

20. Considering all the aggravating and mitigating factors as well as the submissions made by the respective parties, the convict Suraj Singh @ Laala is sentenced to rigorous imprisonment for 05 years (Five years) and fine of Rupees Five Thousand only (Rs. 5,000/-) under Section 10 of the POCSO Act. In default of payment of fine, the convict shall further undergo Rigorous Imprisonment of 06 months.

21. The convict has not paid the fine of Rs. 5000/- or any part thereof.

22. All the sentences shall run concurrently.

23. Convict shall be entitled to the benefit of Section 468 BNSS (earlier Section 428 Cr.P.C.).”

SUBMISSIONS ON BEHALF OF THE APPELLANT

13. Learned counsel for the appellant submitted that the impugned judgment of conviction is unsustainable inasmuch as the prosecution case rests substantially upon the testimony of PW-1, the minor prosecutrix, which, according to learned counsel, suffers from material inconsistencies and contradictions on the core aspects of the prosecution case. It was submitted that the appellant, a first-time offender and an auto-rickshaw driver, has been convicted under Section 354 of the IPC and Section 10 of the POCSO Act and sentenced to undergo rigorous imprisonment for five years, while he was acquitted of the charge under Section 363 of the IPC.



14. Learned counsel submitted that there is no independent eyewitness to the alleged incident and that the parents of the prosecutrix, examined as PW-2 and PW-3, are admittedly not eyewitnesses to the occurrence and their testimony is, therefore, derivative in nature. It was contended that there is also no medical or forensic evidence corroborating the alleged act. According to learned counsel, although the learned Trial Court itself noticed the test of a “sterling witness” as laid down in *Rai Sandeep v. State (NCT of Delhi)*, (2012) 8 SCC 21, the said test was not correctly applied to the testimony of PW-1.

15. Learned counsel further submitted that the learned Trial Court erred in selectively relying upon the testimony of the prosecutrix. It was contended that the Trial Court had disbelieved the prosecution version insofar as the allegation of taking away the prosecutrix was concerned and had consequently acquitted the appellant under Section 363 IPC. According to learned counsel, having rejected the prosecution version on a material aspect of the occurrence, the same evidence could not have been selectively relied upon to sustain the conviction under Section 354 IPC and Section 10 of the POCSO Act, particularly in the absence of independent corroboration. Reliance was placed upon the judgment of the Supreme Court in ***Paramjit Singh Bedi v. State of Punjab***, 2026 SCC OnLine SC 2009.

16. It was next submitted that the essential ingredient of the offences for which the appellant has been convicted was not established by the testimony of PW-1 in Court. Learned counsel drew attention to the deposition of PW-1 recorded on 31.05.2022, wherein she stated that the



appellant had kissed her on the lips and had squeezed her stomach below the breast area, while specifically stating that he did not do any other “bad touch”. It was submitted that when her examination-in-chief was continued on 20.08.2022, PW-1 stated that the appellant had placed her on his lap but expressed that she did not remember whether he had pressed the part used for urination. Learned counsel contended that despite the aforesaid testimony, the learned Trial Court proceeded on the premise that PW-1 had consistently stated that the appellant had touched her private parts. It was argued that even the order on sentence proceeds on the basis that the appellant had touched the vagina of the prosecutrix, although, according to learned counsel, no such assertion was made by PW-1 in her testimony before the Court. It was, therefore, submitted that the conviction, particularly the sentence of five years, rests upon a version which was never deposed to by the prosecutrix on oath.

17. Learned counsel also submitted that the prosecution witnesses had given materially different versions regarding the place of occurrence. It was pointed out that the MLC records that the appellant had taken the prosecutrix to “some abandoned place” where he allegedly attempted to kiss her and touch her private parts. The version subsequently emerging before the counsellor was that the incident had taken place at the house of the appellant, whereas the complaint recorded that the prosecutrix had gone to the appellant's house to play. In her statement under Section 164 CrPC, the prosecutrix allegedly stated that the appellant had taken her behind a car parked in front of her friend's house. On the other hand, PW-2 and PW-3 referred to a vacant plot, with different versions as to who used the said plot



for parking. Learned counsel further referred to the testimony of PW-6, according to whom the prosecutrix had not entered the appellant's house and the alleged incident had taken place in an open area outside the houses.

18. According to learned counsel, these were not minor discrepancies but contemporaneous and material contradictions concerning the very place of occurrence, several of which had surfaced within a short period of the alleged incident. It was further submitted that the site plan was prepared at the instance of the mother of the prosecutrix, who herself was allegedly unaware of the correct place of occurrence. Learned counsel contended that the site plan did not correspond with the description of a “vacant plot” given by the prosecution and, therefore, cast further doubt upon the prosecution version.

19. Learned counsel next submitted that the statement purportedly recorded under Section 164 CrPC was disowned by PW-1 herself. Reference was made to her testimony wherein she stated that the contents of Mark-A had not been stated by her before the learned Magistrate and that the learned Magistrate had not asked her anything. It was submitted that the said statement was merely marked and was never exhibited, and that PW-1 subsequently resiled from the same. Learned counsel argued that a statement under Section 164 CrPC is not substantive evidence and, once the maker disowns the statement, the same cannot independently form the basis of conviction. Reliance was placed upon ***Banchit Guli Majhi v. State of West Bengal, 2006 SCC OnLine Cal 527*** and ***Debu Hait v. State of W.B., 2019 SCC OnLine Cal 2344***.

20. Learned counsel further submitted that the testimony of PW-2 and



PW-3, being the parents of the prosecutrix, suffers from material contradictions on several surrounding circumstances. It was pointed out that there were inconsistencies regarding the response of the appellant when confronted, the person who made the PCR call, the visit and inquiry by the PCR officials, the place and sequence in which the complaint was recorded, the date of the incident and the time at which the incident and subsequent disclosures allegedly occurred. It was submitted that PW-2 and PW-3 had also given inconsistent versions regarding whether the complaint was recorded at the police station or at the residence and whether it was recorded before or after the prosecutrix was taken to the hospital

21. Learned counsel contended that the prosecution evidence itself establishes a prior quarrel between the father of the prosecutrix and the appellant on the same evening. It was submitted that PW-1 admitted the occurrence of such a quarrel, whereas PW-2 and PW-3 denied the same. According to learned counsel, the alleged quarrel concerned the common vacant plot used for parking and was consistent with the defence taken by the appellant under Section 313 CrPC as well as the testimony of DW-1. It was argued that the learned Trial Court rejected the defence of motive as “highly unbelievable” without adequately dealing with the admission of PW-1 regarding the quarrel. Learned counsel also submitted that the appellant had a prior acquaintance with the family and that the prosecutrix used to visit his house once or twice a week, and that PW-3 had not previously suspected the appellant's character.

22. It was further submitted that the investigation suffered from material lapses. Learned counsel pointed out that, although the police witnesses



stated that several neighbours were present, no statements of such independent persons were recorded. It was also submitted that the investigating officer did not examine the neighbours or relatives residing on the first floor and no CCTV footage was collected. The playmates of the prosecutrix, who were allegedly present at or around the relevant time, were also not examined. Learned counsel contended that the friend in front of whose house the car was allegedly parked, as referred to in the Section 164 statement, was also not examined. According to learned counsel, these omissions assume significance because the prosecution case rests substantially upon the testimony of a child witness whose version is alleged to have changed on material particulars.

23. Learned counsel further submitted that PW-6 had stated that the prosecutrix was initially unable to disclose anything and was counselled only at about midnight, several hours after the alleged incident. It was argued that the delay in the alleged disclosure and the subsequent emergence of material details raised serious doubts regarding the genesis and development of the prosecution version. The contradictions between the testimonies of the police witnesses regarding the presence of neighbours and the inquiries allegedly made at the spot were also relied upon as further investigative infirmities.

24. Learned counsel then assailed the manner in which Sections 29 and 30 of the POCSO Act were applied by the learned Trial Court. It was submitted that the statutory presumptions under the POCSO Act do not dispense with the prosecution's obligation to establish the foundational facts by cogent and reliable evidence. According to learned counsel, the



presumption cannot be invoked merely because the accused is facing prosecution under the POCSO Act. It was contended that Section 29 could not have been invoked in respect of the charge under Section 354 IPC and that, where the very occurrence of the alleged act remains doubtful, there was no reliable foundational fact upon which the statutory presumptions could operate. Reliance was placed upon ***Vikash v. State (NCT of Delhi)***, 2026 SCC OnLine Del 5787.

25. Learned counsel submitted that PW-1 did not satisfy the test of a “sterling witness” laid down in Rai Sandeep (supra), as her testimony was not consistent from the earliest version to the deposition before the Court and did not find sufficient corroboration from the other material on record. Reliance was placed upon ***Nirmal Kumar v. State (NCT of Delhi)***, 2026 SCC OnLine Del 3168 and ***State (NCT of Delhi) v. Jawahar Singh***, 2025 SCC OnLine Del 4970.

26. Lastly, learned counsel relied upon various decisions where, in cases involving material contradictions in the testimony of the prosecutrix, absence of corroborative evidence and discrepancies concerning the circumstances of the alleged occurrence, the Courts had extended the benefit of doubt to the accused. Reliance was placed upon ***Devanand Govinda Gayakwad v. State of Maharashtra***, 2018 SCC OnLine Bom 1463, ***Manoj v. State***, 2026 SCC OnLine Del 758 and ***Anwar v. State (NCT of Delhi)***, 2026 SCC OnLine Del 914. It was submitted that in the present case also, the prosecution evidence, when tested cumulatively, does not inspire the degree of confidence required to sustain a conviction for offences under Section 354 IPC and Section 10 of the POCSO Act.



27. On the aforesaid grounds, learned counsel for the appellant submitted that the prosecution had failed to establish the guilt of the appellant beyond reasonable doubt and that the appellant was entitled to the benefit of doubt and consequent acquittal.

SUBMISSIONS ON BEHALF OF THE STATE

28. Learned counsel for the State submits that the victim was a minor child, aged about six years on the date of the incident, and had levelled categorical allegations of sexual assault against the accused. It is, therefore, submitted that the presumption under Section 29 of the POCSO Act stands attracted, which the accused has failed to rebut.

29. Learned counsel for the State further submits that the victim has remained consistent in her version regarding the wrongful acts committed by the accused, which is also corroborated by the version of her parents. It is submitted that the minor inconsistencies in her testimony do not affect the credibility of her evidence.

30. Learned counsel submits that the testimony of the victim, even by itself, is sufficient to sustain the conviction and, accordingly, the accused is liable to be convicted.

ANALYSIS AND CONCLUSION

31. Before adverting to the analysis of the statements of the witnesses, this Court deems it appropriate to first examine the statutory provisions applicable to the present case.

32. Section 7 of the POCSO Act defines the offence of sexual assault. It provides as under:



“Section 7 - Sexual assault Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.”

33. Section 9 of the POCSO Act defines the offence of aggravated sexual assault, as under:

“(n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child, commits sexual assault on such child; or”

34. Section 10 of the POCSO Act provides for the punishment for aggravated sexual assault, as under:

“Whoever, commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.”

35. The above provision makes it clear that an act would constitute sexual assault if committed in any of the following three ways: first, where a person, with sexual intent, touches the vagina, penis, anus or breast of a child; second, where such person makes the child touch the vagina, penis, anus or breast of such person or any other person; and third, where such person, with sexual intent, does any other act involving physical contact with the child without penetration.



36. Now, coming to the statement of the victim, it is evident that, in her statement recorded under Section 164 Cr.P.C., the victim clearly stated that the appellant, i.e., Laala Chacha, had kissed her on her lips and pressed her private parts. She further stated that she had disclosed the said incident to her mother. The relevant portion is reproduced hereinbelow:

‘परसों शाम को मैं अपने दोस्तों के साथ घर के सामने खेल रही थी। तभी लाला चाचा मुझे मेरी फ्रेंड के घर के सामने खड़ी कार के पीछे ले गए। फिर लाला चाचा ने मेरे होंठों पर किस किया और नीचे मेरी पेशाब करने वाली जगह पर हाथ से दबा दिया। उन्होंने मुझे गोद में भी लिया। तभी मम्मी ने आवाज लगाई, तो मैं घर आ गई। फिर मम्मी ने मुझसे पूछा, “बेटा, क्या हुआ?” तब मैंने मम्मी को सारी बात बताई कि लाला चाचा ने मेरे होंठों पर किस किया, नीचे दबाया और मुझे गोद में भी लिया। मम्मी के कहने पर मैंने पापा को भी सारी बात बता दी। इसके बाद पापा ने पुलिस को सूचना दे

37. In her examination-in-chief, the victim deposed that while she had gone out to play, the appellant, whom she referred to as “Laala Chacha”, subjected her to a “bad touch”. She specifically stated that the appellant kissed her on the lips and squeezed the area of her stomach below the breast. She further clarified that, apart from the aforesaid acts, the appellant did not subject her to any other “bad touch” on the day of the incident.

“While I was studying in second class and went out to play, the said Laala chacha did bad touch with me. The said Laala chacha did bad touch with me in



the manner that he kissed me on my lips and also squeezed my stomach below the breast area. Apart from the said bad touch, the said Laala chacha did not do any other bad touch with me on the said day.”

38. The cross-examination of the victim is reproduced hereinbelow:

“CROSS-EXAMINATION (By Mr. Manish Vashisth, Advocate for the accused along with the accused in person.).

It is correct that on the date of incident, in the evening, a quarrel took place between my father and the accused. I do not remember if I told to the police about the quarrel. I do not remember if I told the judge aunty about the quarrel between my father and the accused.

It is incorrect that my mother refrained me to disclose about the said quarrel to the police. It is incorrect that I told the police and the judge aunty, whatever I was tutored by my mother to tell them. It is incorrect that no such incident as alleged by me took place. It is incorrect that I am deposing falsely at the instance of my mother.”

39. In her examination-in-chief, PW-2/mother of the victim deposed that, while her daughter was playing with other children of the locality in a vacant plot outside their house, the victim subsequently returned home and informed her that Suraj @ Laala Chacha had subjected her to “bad touch”. Upon a query by the Court regarding the meaning of “bad touch”, PW-2 clarified that the victim had told her that the appellant had pressed her private part (vagina) and kissed her on the lips.



“.....in my house and my victim daughter alongwith other children of the street were playing outside the house in a vacant plot where the accused used to park his TSR. After sometime my victim daughter came home and informed me that Suraj @ Laala Chacha has done bad touch with me.

On court query about the bad touch, the witness states that the victim told her that the accused has pressed the victim's private part (vagina) and kissed on her lips. I immediately told the same to my husband. My husband then called the accused Suraj @ Laala Chacha at home and made enquiries about the....”

40. From a perusal of the aforesaid statements, it is evident that the victim has remained consistent on the material particulars of the incident. She has consistently stated that the appellant kissed her on the lips and subjected her to inappropriate physical contact. Her immediate disclosure of the incident to her mother is also consistent with the account given by PW-2 in her examination-in-chief.

41. There may be some minor variation in the testimony regarding the precise part of the body touched by the appellant. However, considering the tender age of the victim at the time of the incident, such variation with regard to the precise description of the body part cannot, by itself, be treated as a material contradiction so as to discredit the core of her testimony. The material fact remains that the appellant subjected the minor victim to physical contact of an inappropriate nature and kissed her on the lips.

42. Learned counsel for the appellant has disputed the allegation that the appellant touched the private part of the victim. Even if, for the sake of



argument, the said allegation is excluded from consideration, the allegation that the appellant kissed the lips of a minor child would still require examination under Section 7 of the POCSO Act. The said provision, apart from the specific acts enumerated therein, also covers “any other act with sexual intent which involves physical contact without penetration”. Thus, the absence of penetration or the exclusion of the allegation regarding touching of the private part would not, by itself, take the alleged act outside the ambit of Section 7, provided the requisite sexual intent is established from the facts and circumstances of the case.

43. Moreover, since the appellant was a neighbour of the victim and the victim had reposed trust in him, the appellant would be liable under Section 10 of the POCSO Act.

44. It is well settled that a conviction can be based solely on the testimony of the victim, provided that her testimony is consistent and inspires confidence. In ***State of Madhya Pradesh Vs. Balveer Singh, reported as 2025 SCC OnLine SC 390***, the Supreme Court has examined the principles governing the testimony of a child-witness and summarized the legal position in the following manner:-

58. We summarize our conclusion as under:-

- (I) *The Evidence Act does not prescribe any minimum age for a witness, and as such a child witness is a competent witness and his or her evidence and cannot be rejected outrightly.*
- (II) **As per Section 118 of the Evidence Act, before the evidence of the child witness is recorded, a preliminary examination must be conducted by the Trial Court to ascertain if the child witness is capable of understanding sanctity of giving**



- evidence and the import of the questions that are being put to him**
- (III) Before the evidence of the child witness is recorded, the Trial Court must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and must clearly state why he is of such opinion.
- (IV) **The questions put to the child in the course of the preliminary examination and the demeanour of the child and their ability to respond to questions coherently and rationally must be recorded by the Trial Court. The correctness of the opinion formed by the Trial Court as to why it is satisfied that the child witness was capable of giving evidence may be gone into by the appellate court by either scrutinizing the preliminary examination conducted by the Trial Court, or from the testimony of the child witness or the demeanour of the child during the deposition and cross-examination as recorded by the Trial Court.**
- (V) The testimony of a child witness who is found to be competent to depose i.e., capable of understanding the questions put to it and able to give coherent and rational answers would be admissible in evidence.
- (VI) The Trial Court must also record the demeanour of the child witness during the course of its deposition and cross-examination and whether the evidence of such child witness is his voluntary expression and not borne out of the influence of others
- (VII) **There is no requirement or condition that the evidence of a child witness must be corroborated before it can be considered. A child witness who exhibits the demeanour of any other competent witness and whose evidence inspires confidence can be relied upon without any need for corroboration and can form the sole basis for conviction. If the evidence of the child explains the**



relevant events of the crime without improvements or embellishments, the same does not require any corroboration whatsoever.

(VIII) Corroboration of the evidence of the child witness may be insisted upon by the courts as measure of caution and prudence where the evidence of the child is found to be either tutored or riddled with material discrepancies or contradictions. There is no hard and fast rule when such corroboration would be desirous or required, and would depend upon the peculiar facts and circumstances of each case.

(IX) Child witnesses are considered as dangerous witnesses as they are pliable and liable to be influenced easily, shaped and moulded and as such the courts must rule out the possibility of tutoring. If the courts after a careful scrutiny, find that there is neither any tutoring nor any attempt to use the child witness for ulterior purposes by the prosecution, then the courts must rely on the confidence-inspiring testimony of such a witness in determining the guilt or innocence of the accused. In the absence of any allegations by the accused in this regard, an inference as to whether the child has been tutored or not, can be drawn from the contents of his deposition.

(X) The evidence of a child witness is considered tutored if their testimony is shaped or influenced at the instance of someone else or is otherwise fabricated. Where there has been any tutoring of a witness, the same may possibly produce two broad effects in their testimony; (i) improvisation or (ii) fabrication. (i) Improvisation in testimony whereby facts have been altered or new details are added inconsistent with the version of events not previously stated must be eradicated by first confronting the witness with that part of its previous



statement that omits or contradicts the improvisation by bringing it to its notice and giving the witness an opportunity to either admit or deny the omission or contradiction. If such omission or contradiction is admitted there is no further need to prove the contradiction. If the witness denies the omission or contradiction the same has to be proved in the deposition of the investigating officer by proving that part of police statement of the witness in question. Only thereafter, may the improvisation be discarded from evidence or such omission or contradiction be relied upon as evidence in terms of Section 11 of Evidence Act. (ii) Whereas the evidence of a child witness which is alleged to be doctored or tutored in toto, then such evidence may be discarded as unreliable only if the presence of the following two factors have to be established being as under:-

Opportunity of Tutoring of the Child Witness in question whereby certain foundational facts suggesting or demonstrating the probability that a part of the testimony of the witness might have been tutored have to be established. This may be done either by showing that there was a delay in recording the statement of such witness or that the presence of such witness was doubtful, or by imputing any motive on the part of such witness to depose falsely, or the susceptibility of such witness in falling prey to tutoring. However, a mere bald assertion that there is a possibility of the witness in question being tutored is not sufficient. • Reasonable likelihood of tutoring wherein the foundational facts suggesting a possibility of tutoring as established have to be further proven or cogently substantiated. This may be done by leading evidence to prove a strong and palpable motive to depose falsely, or by establishing that the delay in



recording the statement is not only unexplained but indicative and suggestive of some unfair practice or by proving that the witness fell prey to tutoring and was influenced by someone else either by crossexamining such witness at length that leads to either material discrepancies or contradictions, or exposes a doubtful demeanour of such witness rife with sterile repetition and confidence lacking testimony, or through such degree of incompatibility of the version of the witness with the other material on record and attending circumstances that negates their presence as unnatural.

(XI) Merely because a child witness is found to be repeating certain parts of what somebody asked her to say is no reason to discard her testimony as tutored, if it is found that what is in substance being deposed by the child witness is something that he or she had actually witnessed. A child witness who has withstood his or her cross-examination at length and able to describe the scenario implicating the accused in detail as the author of crime, then minor discrepancies or parts of coached deposition that have crept in will not by itself affect the credibility of such child witness.

(XII) Part of the statement of a child witness, even if tutored, can be relied upon, if the tutored part can be separated from the untutored part, in case such remaining untutored or untainted part inspires confidence. The untutored part of the evidence of the child witness can be believed and taken into consideration or the purpose of corroboration as in the case of a hostile witness.”

45. In view of the above, the settled position of law is that even if the victim is the sole witness to the incident, a conviction can be sustained if her testimony is found to be credible and reliable. However, the testimony



of child witness has to be carefully scrutinised on afore-extracted parameters.

46. In the present case, the learned trial Court had put questions to the victim and recorded its satisfaction that the child witness was able to understand the questions and give rational answers to them. Though suggestions of tutoring were put to her in cross-examination, as discussed in the subsequent paragraphs, the allegation of tutoring could not be established and no material contradiction was pointed out which would render her testimony untrustworthy.

CONCLUSION

47. In view of the foregoing, the testimony of the victim is consistent and inspires confidence. The minor variations do not constitute material contradictions, and the allegation of tutoring has not been established.

48. Accordingly, this Court finds no ground to interfere with the impugned judgment dated 13.04.2026 and the Order on Sentence dated 20.04.2026 passed by the learned ASJ (SC-POCSO)-02, North-East District, Karkardooma Courts, Delhi.

49. The present appeal is, accordingly, dismissed. Pending application(s), if any, also stand disposed of.

50. A copy of this judgement be sent to the learned Trial Court for necessary information and compliance.

**MADHU JAIN
(JUDGE)**

OCTOBER 13, 2026/RM