SUPREME COURT OF INDIA

Full Bench: Justices Dipankar Datta, K.V. Viswanathan, and Sandeep Mehta

Date of Decision: 11th March, 2024

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1098 OF 2024

NIRMAL PREMKUMAR & ANR. …APPELLANT(S)

VERSUS

STATE REP. BY INSPECTOR OF POLICE …RESPONDENT

Legislation:

Sections 11(i), 12, 17 of the Protection of Children from Sexual Offences Act (POCSO Act)

Section 506 of the Indian Penal Code, 1860 (I.P.C.)

Sections 164, 173(2), 313, 374(2) of the Code of Criminal Procedure (Cr.P.C.)

Subject: Criminal appeal challenging the High Court's judgment affirming the conviction of appellants for offenses under the POCSO Act and IPC involving allegations of sexual harassment of a minor student by teachers. Acquittal.

Headnotes:

Alleged Sexual Harassment by Teachers – Conviction of appellants (A-1 and A-2) under Section 12 of the POCSO Act and Section 506 IPC for sexually harassing a minor girl student – Incident involving gifting of flowers and chocolate on Valentine's Day and threatening remarks – High Court upheld

Special Court's decision – Contradictions in testimony and lack of corroborative evidence questioned. [Paras 1, 2, 3, 5, 6]

Evaluation of Evidence – Analysis of contradictions in victim's statements and witnesses' testimonies – Inconsistencies noted between victim's statement under Section 164, Cr.P.C., and deposition in court – Discrepancies in complaint lodging process – Witness P.W.6's hostility and P.W.10's unawareness of incidents weakened prosecution's case – Discrepancies in witness testimonies regarding incidents and approach to police – Lack of clarity on complaint lodging procedure and failure to examine other classroom students. [Paras 16, 17, 18, 19, 20]

Legal Principles in Sexual Harassment Cases – Reliance on sole testimony of the victim requires it to be of sterling quality – Inconsistencies in the victim's account and lack of corroborative evidence from eyewitnesses or circumstantial evidence – Judicial notice of Valentine's Day irrelevant to the case. [Paras 10, 11, 12, 13, 14, 15]

Conclusion and Acquittal – Evidence not sufficient for conviction – Prosecution failed to prove case beyond reasonable doubt – Benefit of doubt extended to appellants – Convictions under Section 12 of the POCSO Act and Section 506 IPC set aside – Appellants acquitted and directed to be released from custody. [Paras 21, 22, 23, 24, 25, 26, 27, 28, 29]

Referred Cases:

- Ganesan v. State (2020) 10 SCC 573
- Rai Sandeep v. State (NCT of Delhi) (2012) 8 SCC 21
- Krishan Kumar Malik v. State of Haryana (2011) 7 SCC 130

J U D G M E N T

DIPANKAR DATTA, J.

THE APPEAL

1. The correctness of the judgment and order dated 11th November, 2022 ("impugned judgment", hereafter) passed by a learned Judge of the High Court of Judicature at Madras ("High Court", hereafter) is questioned in this appeal. By the impugned judgment, the High Court dismissed the criminal appeal[1] [under section 374(2) of the Code of Criminal Procedure ("Cr.P.C.", hereafter)] carried by the appellants from the judgment and order dated 22nd November, 2021 of the Special Court for Exclusive Trial of Cases ("Special Court", hereafter) under the Protection of Children from Sexual Offences Act ("POCSO Act", hereafter) in a sessions case[2] registered against the two appellants ("A-1" and "A-2", respectively, hereafter). The Special Court having convicted A-1 under section 12 of the POCSO Act sentenced him to three (3) years' rigorous imprisonment together with a fine of Rs. 30,000/-, in default to suffer further six (6) months' rigorous imprisonment. Insofar as A-2 is concerned, conviction under section 506 of the Indian Penal Code, 1860 ("I.P.C.", hereafter) was recorded and he was sentenced to two (2) years rigorous imprisonment with fine of Rs. 20,000/, in default to suffer further four (4) months' rigorous imprisonment.

BRIEF RESUME OF FACTS

2. The facts, leading to the present appeal, are as follows:

a) The prosecution's case unfolds in three distinct incidents. The victim/P.W.2 ("victim", hereafter), a minor girl aged about 13 years, was an eighth-grade student of a Higher Secondary School ("school", hereafter) during the academic year 2017-18. A-1 and A-2 held positions as Tamil and Social Science teachers, respectively, in such school. The first incident occurred on 14th February, 2018, around 10:15 A.M. A-1 entered the classroom, approached the victim, and forcefully presented her with roses, jasmine flowers, and chocolate in the presence of fellow students. Despite the victim's refusal to accept the offerings, A-1 resorted to twisting her arm, coercing her into accepting the same. The second incident took place later in the day on 14th February, 2018, when the victim was called by A-2

[1] Criminal Appeal No. 697 of 2021
[2] Special Sessions Case No. 13 of 2020

through a girl student studying in the seventh grade. A-2 enquired from the victim why was she refusing to talk to A-1 and that if she continues to not talk to him, A-1 would die and she would be held responsible. The third incident transpired on 15th February, 2018, when another teacher ("P.W.9", hereafter) informed the victim that she had been called to the physical education teacher's room by A-1. Upon reaching the designated room, A-1 inquired why the victim was not talking to him. In response, she expressed fear citing potential trouble with her family if they were to discover the situation. Allegedly dismissive of her concerns, A-1 purportedly asserted that the victim's family members would be powerless to address the situation even if they became aware of it. The victim's parents learnt of her distress resulting from the aforesaid three incidents through the victim's maternal aunt ("P.W.4", hereafter) upon her persistent questioning of the victim.

b) Following this, the victim's father ("P.W.1", hereafter) approached the Headmaster of the school ("P.W.10", hereafter) appealing for intervention. However, instead of addressing the issue, but upon assuring appropriate action, P.W.10 advised P.W.1 to not disclose it to anyone. Due to inaction on the part of P.W.10, P.W.1 lodged a formal complaint with the local police station on 18th February, 2018[3]. The aforementioned complaint led to the registration of the First Information Report ("F.I.R.", hereafter) on 19th February, 2018 against three teachers, viz. A-1, A-2 and A-3, for the offences under sections 11(i) and 12 of the POCSO Act.

c) Upon completion of investigation, a report was filed under section 173(2), Cr.P.C. While A-1 was charged under sections 11(i) read with section 12 of the POCSO Act and A-2 under section 17 of the POCSO Act, the proceeding against A-3 was dropped.

d) Upon committal, charges for the offences under section 12 of the POCSO Act and section 506 of the I.P.C. were framed against A1. A-2 faced charges under section 12 and section 17 of the POCSO Act and section 506 of the I.P.C. A-1 and A-2 entered pleas of not guilty and claimed to be tried.

e) The prosecution examined twelve (12) witnesses. From the trend of cross examination to which the prosecution witnesses were subjected, it is clear that the defence sought to make out a case of false implication of A-1 and

[3] CSR No. 90 of 2018

A-2 arising out of a previous incident, which we propose to refer at a later part of the judgment. After the prosecution's evidence, examination of A-1 and A-2 under Section 313 of the Cr.P.C. followed when both denied the allegations, while asserting their falsehood. A-1 then examined himself in defence.

3. *Vide* judgment and order dated 22nd November, 2021, the Special Court convicted A-1 and A-2 and sentenced them as noted at the beginning of this judgment.

4. Challenge to such judgment and order proved abortive. The High Court was of the view that the findings recorded by the Special Court did not warrant any interference and that the appeal was devoid of any merit; hence, it was dismissed.

SUBMISSIONS

5. Learned counsel appearing on behalf of the appellants took serious exception to the findings returned by the Special Court and the High Court and advanced the following submissions:

a) The prosecution has not proved its case beyond reasonable doubt and the Court ought to have acquitted the appellants.

b) Several glaring inconsistencies and contradictions that manifest on a bare reading of the oral evidence were brushed aside because the Special Court and the High Court were too obsessed with the thought that a teacher had indulged in sexual harassment / assault of a girl student.

c) The prosecution could not prove the case beyond a reasonable doubt, as none of the witnesses other than the victim testified to witnessing A-1 giving flowers and chocolate to her. This crucial fact was acknowledged by the Investigating Officer (“P.W.12”, hereafter) in course of recording of his testimony. The evidence of the victim was thoroughly unreliable and should not have been given any credence.

d) The contradictions in the testimony of the victim cast serious doubt as to whether the actions of A-1 and A-2, as framed by the prosecution, could be said to carry ‘sexual intent’.

6. Learned counsel, emphasizing the contradictions in the depositions and highlighting the flaws in the impugned decisions, urged this Court to accept the appeal and acquit A-1 and A-2.

7. Learned senior counsel appearing for the State, in contrast, supported the judgment of conviction and order of sentence of the Special Court and submitted that the High Court took pains to reassess the evidence in arriving at its concurrence with the Special Court's judgment and order. It was emphasised by him that teachers occupy a position of immense trust and responsibility in the life of a student, since they not only help shape the future of the student, but are also guardians with whom parents entrust the care of their child. Thus, the desecration of an educational institution by such acts of sexual harassment not only grimly underlines the moral depravity of the accused, but also violates the sanctity of the pursuit of education, which has larger ramifications for society as a whole, inasmuch as such incidents can act as a deterrent in the education of young girls. No case having been set up by A-1 and A-2 for interference, he urged this Court to dismiss the appeal.

ANALYSIS

8. We have heard the parties, considered the evidence led at the trial and perused the judgment and order of the High Court as well as the Special Court.

9. The issues that emerge for decision are:

(i) Whether the evidence on record is sufficient to record conviction against A-1 and A-2?

(ii) Should the answer to the above be in the affirmative, what should be the appropriate punishment to be imposed on A-1 and A-2?

10. Before addressing the issues, we consider it appropriate to revisit the law laid down by this Court regarding the weight to be attached to the testimony of the victim in matters involving sexual offences where the prosecution's case hinges on the victim's evidence—a scenario central to the present case.

11. Law is well settled that generally speaking, oral testimony may be classified into three categories, viz.: (i) wholly reliable; (ii) wholly unreliable; (iii) neither wholly reliable nor wholly unreliable. The first two category of cases

may not pose serious difficulty for the Court in arriving at its conclusion(s). However, in the third category of cases, the Court has to be circumspect and look for corroboration of any material particulars by reliable testimony, direct or circumstantial, as a requirement of the rule of prudence.

12. In ***Ganesan v. State***[4], this Court held that the sole testimony of the victim, if found reliable and trustworthy, requires no corroboration and may be sufficient to invite conviction of the accused.

13. This Court was tasked to adjudicate a matter involving gang rape allegations under section 376(2)(g), I.P.C in ***Rai Sandeep v. State (NCT of Delhi)***[5]. The Court found totally conflicting versions of the prosecutrix, from what was stated in the complaint and what was deposed before Court, resulting in material inconsistencies. Reversing the conviction and holding that the prosecutrix cannot be held to be a 'sterling witness', the Court opined as under:

"22. In our considered opinion, the 'sterling witness' should be of a very high quality and calibre whose version should, therefore, be unassailable. The court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as the sequence of it. Such a version should have co-relation with each and every one of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be

[4] (2020) 10 SCC 573
[5] (2012) 8 SCC 21

any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other such

similar tests to be applied, can it be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

(underlining ours, for emphasis)

14. In ***Krishan Kumar Malik v. State of Haryana***[6], this Court laid down that although the victim's solitary evidence in matters related to sexual offences is generally deemed sufficient to hold an accused guilty, the conviction cannot be sustained if the prosecutrix's testimony is found unreliable and insufficient due to identified flaws and lacunae. It was held thus:

"31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of the prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. But, in the case in hand, the evidence of the prosecutrix, showing several lacunae, which have already been projected hereinabove, would go to show that her evidence does not fall in that category and cannot be relied upon to hold the appellant guilty of the said offences.

32. Indeed there are several significant variations in material facts in her Section 164 statement, Section 161 statement (CrPC), FIR and deposition in court. Thus, it was necessary to get her evidence corroborated independently, which they could have done either by examination of Ritu, her sister or Bimla Devi, who were present in the house at the time of her alleged abduction. The record shows that Bimla Devi though cited as a witness was not examined and later given up by the public prosecutor on the ground that she has been won over by the appellant."

[6] (2011) 7 SCC 130

What flows from the aforesaid decisions is that in cases where witnesses are neither wholly reliable nor wholly unreliable, the Court should strive to find out the true genesis of the incident. The Court can rely on the victim as a "sterling witness" without further corroboration, but the quality and credibility must be exceptionally high. The statement of the prosecutrix ought to be consistent from the beginning to the end (minor inconsistences excepted), from the initial statement to the oral testimony, without creating any doubt *qua* the prosecution's case. While a victim's testimony is usually enough for sexual offence cases, an unreliable or insufficient account from the prosecutrix, marked by identified flaws and gaps, could make it difficult for a conviction to be recorded.

15. Guided by the law as aforesaid and, in our pursuit, to answer the first issue, we record having examined the evidence threadbare and noticed manifest contradictions and discrepancies in the oral evidence of the prosecution witnesses. To our mind, these have the effect of casting a serious doubt with regard to the veracity of the prosecution version. They are summarized hereunder:

a) The prosecution's narrative attempts to establish that the victim had revealed the incident to P.W.4 only on Thursday, 15th February, 2018, which led P.W.1 to approach P.W.10 on Friday, 16th February, 2018. P.W.10 had assured an enquiry, but failed to follow through on such promise, which is what led P.W.1 to make a complaint to the police. A deeper scrutiny of the evidence reveals that though P.W.10 had assured that an enquiry would be conducted on Monday, 19th February, 2018, the complaint to the police had already been filed on Sunday, 18th February, 2018. It is also on record that the victim's maternal uncle, and husband of P.W.4 ("P.W.5", hereafter) had deposed that he and P.W.1 had been to P.W.10 on Monday, i.e., 19th February, 2018. Even discounting the version of P.W.5, despite he being more educated than the other witnesses (he happened to be the Headmaster of another school), it is evident that the complaint was filed in a tearing hurry, with absolutely no time being given to P.W.10 to conduct any enquiry at all. Though not much would turn on the reluctance of P.W.10 to take action against A-1 and A-2, what is important, if the version of P.W.5 is to be believed, is that P.W.10 was approached after the complaint was lodged. Having regard to the defence case that there was animosity between A-1 and P.W.1, it is difficult to believe what P.W.1 said in the concluding paragraph of the complaint as true. Also,

nowhere in his deposition does P.W.1 say of having approached P.W.10 for his intervention. The water is further muddied by the numerous contradictions in depositions which makes one question whether P.W.10 was approached at all. The victim in her statement recorded under section 164, Cr.P.C. states that it was P.W.5, who went to P.W.10, but in her deposition on oath she states that it was P.W.4 who did so. However, the deposition of P.W.10 makes no reference to any such complaint being received by him.

b) In a strange turn of events, P.W.1 deposes in his cross examination that he made an oral complaint to the 'Head Mistress' of the school, accompanied by his daughter, the victim, and P.W.12. There is no reference to the existence of a Head Mistress by any witness. However, even if we take this to be a reference to P.W.10, the evidence belies the prosecution's own narrative since it has throughout been the case of the prosecution that it is only after the reluctance of P.W.10 to take action on the oral complaint that the police had been approached.

c) On the factum of the complaint being made to the local police station on 18th February, 2018, there is no clarity whatsoever as to who actually approached the police. While the victim deposes that she went to the police station along with P.W.1 and P.W.5, the depositions of the latter two persons reveals something else entirely. According to P.W.1, he was accompanied to the police station by his co-brother (which could be P.W.5). Significantly, P.W.5 made no mention of going to the police station. The victim's mother ("P.W.3", hereafter), on the other hand, deposes that it was she who went to the police station along with the victim and P.W.1. A perusal of the deposition of the Sub Inspector of Police ("P.W.11", hereafter) reveals that it was only P.W.1 who had come to the police station.

d) The dark grey clouds of suspicion, thus, begin to form from the very inception, i.e., the contents of the complaint and the mode and manner of the same being lodged.

e) Besides, there are manifest discrepancies between the statement of the victim recorded under section 164, Cr.P.C. and her deposition recorded in Court. In the former, it was mentioned that A-1 "twisted her arm" when she declined to accept the rose, jasmine flowers, and chocolate. Conversely, in the latter, the victim simply stated that A-1 attempted to give her a flower, and upon her refusal, he forcibly placed it in her hand. While this alone may not prompt us to reach any immediate conclusion, it has a material bearing while we proceed to consider the other attending circumstances.

f) It is alleged by the prosecution that on 14th February 2018, during the second period, A-1 singled out the victim and forcibly gave her flowers and chocolates. However, while the victim mentions both chocolate and flowers being offered in her statement under section 164, Cr.P.C., as noted above, she omits the mention of the chocolate in her deposition before Court. This could or could not be seen as a mere omission. But, importantly, the only other classmate who comes forward to depose on the incident is P.W.6, but she turns hostile and denies having ever given the police a narrative of events. Meanwhile, an examination of the victim's confidante, i.e., P.W.4's deposition reveals a much more dramatic turn of events. According to her, A-1 not only tortured the victim into wearing the flowers, but also that he pinched her hand. She also deposes that A-1 had allegedly given the victim flowers often, whereas the victim nowhere refers to the occurrence of any prior incident. These are no doubt embellishments which we discard from our consideration.

g) The crucial question of whether the incident actually transpired comes under scrutiny when considering the role of P.W.10 who, in addition to being the head of the institution, held the significant position of a priest. It is in the evidence of P.W.3 and P.W.4 that it was usual for them to go to the priest (read P.W.10), should there be any issue with regard to the Christian community. The evidence does not reflect that they ever approached P.W.10 once they learnt of the incident from the victim. We have, at an earlier part expressed our doubt as to whether P.W.10 was at all approached prior to lodging of the complaint. Moving further, what is apparent is that coupled with his solemn duty as a priest, responsibilities of P.W.10 as the master of the entire institution included overseeing of daily activities involving both students and teachers. In the context of the present case, P.W.10 who was brought in as a prosecution witness, should logically have been questioned about the alleged incident. However, the absence of any query to have the truth elucidated severely dents the prosecution's case. It is unbelievable that P.W.10 could either not be aware of the incident, if at all the same happened, or even if aware, would maintain stoic silence. That would not be in consonance with what people like P.W.3 and P.W.4, having faith in a priest, would expect.

h) We must notice another hurdle in the purportedly completed sequence of events as asserted by the prosecution. It is a given fact that there were other students present in the classroom who were eyewitnesses to the incident, as described in the complaint and as deposed by the victim. In what could have

been a determinative factor, none of the students present in the classroom was examined except one, i.e., P.W.6 who turned hostile to the case set up by the prosecution right from the word 'go'. It is quite understandable that the other students may not have, for varied reasons, been examined as witnesses for the prosecution. However, the victim's elder brother, a student of Class XII in the same school, was also not adduced as a witness. Again, there could be multiple reasons for the prosecution not to have him lead evidence, but what stands out is that even P.W.6 deposed that she did not remember as to what happened with the victim and it is only through her friends that she became aware of the incident. In such a scenario of hearsay evidence, failure of the prosecution to elicit the truth from P.W.10 and lack of support from him weakens the prosecution case to a significant extent.

i) The Special Court has laid repeated emphasis on the first incident being objectionable, especially in view of the fact that 14th February, 2018 was Valentine's Day. True it is, the Court could take judicial notice of 14th February being celebrated as Valentine's Day. However, an examination of the evidence reveals that the day was significant for the parties involved, all of whom are Christians, not owing to Valentine's Day but because of Ash Wednesday which is a day of mourning for Christians. This, we find from the evidence of the victim, P.W.4 and P.W.10. The complaint makes no mention of the day being Valentine's Day, which is reaffirmed by the depositions of P.W.11 and P.W.12. The only hint of 14th February being Valentine's Day is found from the deposition of P.W.5, who said so in the passing and not to emphasise the role of A-1 in expressing his love for the victim on that day. Drawing of conclusion by the Special Court with reference to the date 14th February to indict A-1 does not, therefore, seem to be logical and rational.

j) On its part, the High Court from the very beginning laboured under a misconception that A-1 had perpetrated a physical attack on the victim by pinching her. Nowhere in the deposition has the victim said that she was pinched by A-1. It, therefore, defies reason as to how the High Court could perceive, more than once, and conclude that A-1 pinched the victim. The High Court proceeded to decide the appeal with a coloured vision of the victim having been sexually assaulted, which unfortunately led to deflection of justice. Quite apart, the obvious conclusion that necessarily follows is that the High Court found it difficult to nail A-1 based on the insufficient materials on record for which it sought to draw support by turning to the statement under section 164, Cr.P.C and relying on the same.

k) The second incident does not involve A-1. According to the victim, A-2 called her through another student, but this student was not examined. His / her identity, therefore, is unknown. Even as per the version of the victim, A-2 conveyed to her that if she did not talk to A-1, he would die and for A-1's death, she would be held responsible. While there is an assertion by the victim of having met A-2 in the evening of 14th February and a denial thereof by A-2, the student who was the vital link not having been examined, it is extremely doubtful whether the victim at all met A-2.

l) With regard to the third incident of the victim being summoned to the P.E.T room and being threatened by A-1 and A-2, the victim's own version of events is incongruous. The victim states in her statement under section 164, Cr.P.C. that A-1 had called P.W.9 on phone and asked him to send both the victim and P.W.6 to the P.E.T. room. However, the deposition of P.W.9 reveals that P.W.9's phone was never even examined by the police to find out whether A-1 had called him, thus, revealing yet another lacuna in the investigation. Further, in her deposition, the victim states that it was P.W.6 who had come to the classroom and informed the victim that A-2 had summoned her, and not A-1. It is only in her cross-examination that she made an attempt to correct her statement by saying that it was A-1 who had actually summoned her. Perusal of P.W.6's deposition reveals that she denied ever asking the victim to go to the P.E.T room, and also being in the
P.E.T room when the threats were allegedly made to the victim.
The cracks in the prosecution version are further deepened by the deposition of P.W.4, who states that no incident happened on 15th February, 2018 at all, and it is only A-2 who made the alleged threats to the victim on 14th February, 2018.

17. When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version.

18. However, an alleged offence of sexual harassment in a public place, as opposed to one committed within the confines of a room or a house, or even in a public place but away from the view of the public, stands on somewhat different premise. If any doubt arises in the Court's mind regarding the veracity of the victim's version, the Court may, at its discretion, seek

corroboration from other witnesses who directly observed the incident or from other attending circumstances to unearth the truth.

19. In the present case, the alleged sexual harassment transpired in a classroom. For corroboration of the victim's version, P.W.6 was brought in as a witness. Although declared hostile, a part of her testimony supports the allegation levelled by the victim, indicating that the act of giving a flower became a topic of conversation among other students in the class. However, the other part of the prosecution's narrative, specifically that A-1 gave flowers and chocolate to the victim, lacked support in her testimony. Rather strangely, the prosecution made little effort or no effort to have the truth spoken to by P.W.10. Notwithstanding that appropriate questions were not put to P.W.10, we are inclined to form an opinion that if any untoward incident relating to a girl student of his school had taken place, it was P.W.10 who as the head of the institution would have been aware and as a priest would have disclosed.

20. A-1 and A-2, in support of their defence, sought to make out that there was an alleged pre-existing animosity between the parties. What we can gather from the questions put in course of cross-examination of the witnesses and the deposition of A-1 are that there was an incident of sexual harassment in the school in 2012 involving a relative of the victim's parents. He was a teacher in the same school and had been accused of sexually harassing a female teacher employed by the school. Disturbed by such incident, both A-1 and A-2 had initiated action against such relative/teacher. There is another dimension to this animosity which has been elucidated by both A-1 and A-2 through the evidence of P.W.9, and that is of promotional politics in the faculty of the school. It is in the evidence of P.W.9 that P.W.1 had another relative, who was a teacher at the school, and if A-1 and A-2 were removed from their posts, such relative would be the beneficiary of a promotion. The victim herein is thus alleged to be a mere pawn in an act of revenge orchestrated by P.W.1 to falsely implicate the accused. While we do not believe it to be likely that an innocent child would be so cruelly used by her parents, we also cannot deem it to be entirely outside the realm of possibility.

21. Taking a close look at the overall picture, the inference which could reasonably be drawn is that the prosecution's case has been marked by lacklustre efforts, revealing a poorly executed endeavour that gives rise to substantial doubts regarding the integrity of the case. The material contradictions apparent in the depositions of prosecution witnesses, including the victim, significantly undermine the credibility of the prosecution version.

These inconsistencies in the prosecution's narrative, render it considerably doubtful. On the face of such evident discrepancies, recording conviction becomes untenable, as the foundation of the case crumbles under the weight of doubt. While we might have chosen to overlook other contradictions and solely relied on the victim's account, considering her as a ‘sterling witness’, her version appears muddled and prevaricated, much less coherent. It is precisely these inconsistencies and contradictions, which are material, that compel us to reject the case set up by the prosecution before the Special Court with which the High Court concurred adopting a flawed approach.

22. Conviction undoubtedly can be recorded on the sole evidence of a victim of crime; however, it must undergo a strict scrutiny through the wellsettled legal principles as established by this Court in a catena of decisions. While the actions attributed to A-1, as sought to be demonstrated by the prosecution, may fall within the purview of 'sexual harassment' under section 11 of the POCSO Act, the evidence in this case has been marred by inadequacies from the outset, evident in contradictions within statements and testimonies. The evidence led leaves reasonable suspicion as to whether A-1 was actually involved in any criminal act.

23. We are left with A-2’s conviction under section 506, I.P.C. In the light of the above discussions and the nature of the overt act attributed to A-2, the case against him does not justify a conviction under section 506 I.P.C.

24. The first issue is, thus, answered in the negative. Having regard thereto, the second question does not call for any answer.

CONCLUSION

25. Upon reviewing the record, we have no other choice but to hold that the circumstances on which the conclusion of guilt is to be drawn was not fully established.

26. We quite agree with the submissions of learned senior counsel for the State that an act of sexual harassment of a girl student (who is also a minor) by any teacher would figure quite high in the list of offences of grave nature since it has far-reaching consequences, which impact more than just the parties to the proceeding. At the same time, it is axiomatic that reputation is earned by a teacher upon rendering service over the years and an accusation like the present would remain as an indelible mark marring his entire future life. Care has, therefore, to be taken so that his right to live a life of dignity

and personal liberty are not put to jeopardy on the basis of half-baked evidence.

27. We are, thus, inclined to deem this case unsuitable for securing a conviction under section 11 read with section 12 of the POCSO Act, as there are enough missing links in the present case to extend the benefit of doubt to A-1. As regards A-2, we do not consider that the prosecution was successful in proving that the conduct of A-2 was a case of criminal intimidation punishable under section 506 of I.P.C.; his conviction, too, is also liable to be set aside.

RELIEF

28. For all the foregoing reasons, the conviction of A-1 and A-2, as recorded by the Special Court and the sentence imposed upon them, since affirmed by the High Court, stand set aside. The appeal, accordingly, is allowed. The appellants are acquitted and set free.

29. A-1 and A-2 are still behind bars. They shall be immediately released from custody, if not wanted in any other case.