

2025 LiveLaw (SC) 781

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
ARAVIND KUMAR; J., SANDEEP MEHTA; J.**

August 4, 2025

**SPECIAL LEAVE PETITION (CRIMINAL) DIARY NO. 33114/2025
BHANEI PRASAD @ RAJU *versus* STATE OF HIMACHAL PRADESH**

Protection of Children from sexual Offences Act, 2012 (POCSO Act) - Sections 6, 29 - Indian Penal Code, 1860 (IPC) - Section 506 - Aggravated penetrative sexual assault - Presumption of Guilt - Criminal Intimidation – Held, incestuous sexual violence committed by parent requires severest punishment, upheld fathers POCSO conviction - Crimes of sexual abuse, especially against children and by a parent, constitute an unspeakable betrayal of trust and assume a “demonic character”, deserving the “severest condemnation and deterrent punishment” - Incestuous sexual violence by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence, with no mitigation in sentencing for such crimes - A father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most severe violation of a child’s bodily integrity and dignity, the betrayal is not only personal but institutional - The home, which should be a sanctuary, cannot be permitted to become a site of unspeakable trauma, and the courts must send a clear signal that such offences will be met with an equally unsparing judicial response - Directed Rs. 10,50,000/- to be paid as compensation to the victim by State. [Relied *Nipun Saxena v. Union of India* (2019) 2 SCC 703; Paras 9-16]

For Petitioner(s): Mr. Krishna Pal Singh, AOR Ms. Anvita Aprajita, Adv. Mr. Mohan Singh Bais, Adv. Mr. Seemab Qayyum, Adv.

ORDER

1. Heard. Delay condoned.
2. The present petition assails the judgment and final order dated 03.07.2024 passed by the High Court of Himachal Pradesh at Shimla in Criminal Appeal No.562 of 2019, whereby the conviction and sentence of the petitioner under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, 'POCSO Act') and Section 506 of the Indian Penal Code has been affirmed.
3. The facts of the case reveal a story of unspeakable betrayal of trust by none other than the father of the victim, who stands convicted for repeatedly committing aggravated penetrative sexual assault upon his own minor daughter, who was just around ten years old at the time of the incident. The acts were not isolated incidents but sustained, deliberate assaults within the safety of the home, a place where every child expects protection.
4. The Trial Court, upon meticulous evaluation of the oral testimony of the victim (PW3), the corroborating evidence of her elder sister (PW2), and the compelling forensic and medical records, had rightly returned a verdict of guilt. The High Court, in a well-reasoned judgment, has affirmed the conviction and imposed the sentence of life imprisonment, in addition to fine.
5. The jurisprudence under the POCSO Act has evolved as a bulwark against the predatory crimes targeting the innocence of childhood. Section 29 of the POCSO Act creates a statutory presumption of guilt, once foundational facts are established. In the

present case, this presumption stood un rebutted. The victim's testimony was unwavering, medically corroborated, and free from embellishment. Her disclosure, though delayed, was truthful and borne out of perennial trauma and threats she has undergone.

6. It is now well settled that the testimony of a child victim, if found credible and trustworthy, requires no corroboration. The Courts below have not merely accepted the victim's account, they have validated it through unimpeachable scientific evidence. The DNA report sealed the evidentiary chain and has dispelled all doubts in the prosecution case which is sought to be assailed by the petitioner.

7. The argument raised before us is that the petitioner was falsely implicated due to strained domestic relationships and disapproval of romantic alliances of his daughters is completely hollow. No daughter, however aggrieved, would fabricate charges of this magnitude against her own father merely to escape household discipline.

8. This Court has repeatedly underscored that in offences involving sexual abuse, especially against children, the trauma suffered by the victim is lifelong. The scars are not merely physical but psychological, cutting across every fibre of trust, safety, and dignity. When the perpetrator is none other than the father, the natural guardian, the crime assumes a demonic character.

9. Such offences deserve nothing but the severest condemnation and deterrent punishment. To pardon such depravity under any guise would be a travesty of justice and a betrayal of the child protection mandate embedded in our constitutional and statutory framework.

10. As per ancient scriptures:

“Yatra nāryastu pūjyante ramante tatra devatāḥ, yatra itaastu na pūjyante sarvāstatra aphalāḥ kriyāḥ.” *"Where women are honoured, divinity flourishes; and where they are dishonoured, all acts become fruitless."*

This verse reflects not merely a cultural principle but a constitutional vision. The dignity of women is non-negotiable, and our legal system must not permit repeated intrusion into that dignity under the guise of misplaced sympathy or alleged procedural fairness.

11. A prayer for interim relief of bail is also sought in the petition and our judicial conscience does not permit casual indulgence in a prayer for interim relief of bail where the conviction has been rendered after full-fledged trial, affirmed in appeal, and the testimony of the victim is clear, cogent, and duly corroborated. This Court has repeatedly held that in serious offences under the POCSO Act, particularly those involving familial betrayal of trust, relief cannot be granted as a matter of routine. Where two courts have concurrently found guilt and the findings are not shown to be perverse, interference under Article 136 is neither warranted nor justified in the present case.

12. Let it be stated unambiguously that entertaining of the present petition or remotely considering the grant of bail in a case of this nature, after the guilt has been proved and affirmed, would not merely undermine the majesty of the law, it would amount to a betrayal of the constitutional promise made to every child of this country. It would be, in the considered view of this Court, a judicial insult to the sanctity of womanhood and a blow to every mother who teaches her child to believe in justice.

13. When a father who is expected to be a shield, a guardian, a moral compass, becomes the source of the most severe violation of a child's bodily integrity and dignity, the betrayal is not only personal but institutional. The law does not, and cannot, condone such acts under the guise of rehabilitation or reform. Incestuous sexual violence

committed by a parent is a distinct category of offence that tears through the foundational fabric of familial trust and must invite the severest condemnation in both language and sentence. The home, which should be a sanctuary, cannot be permitted to become a site of unspeakable trauma, and the courts must send a clear signal that such offences will be met with an equally unsparing judicial response. To entertain a plea for leniency in a case of this nature would not merely be misplaced, it would constitute a betrayal of the Court's own constitutional duty to protect the vulnerable. When a child is forced to suffer at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. There can be no mitigation in sentencing for crimes that subvert the very notion of family as a space of security.

14. In such exceptional circumstances, this Court cannot rest content with the imposition of penal consequences alone. The arc of constitutional justice, particularly under Article 142, extends beyond punishment to encompass rehabilitation, reparation, and the affirmation of human dignity. As held in ***Nipun Saxena v. Union of India***¹, this Court accepted and directed the implementation of the “*Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018*” framed by the National Legal Services Authority. Under the said Scheme, the maximum compensation prescribed for victims of rape is Rs.7,00,000/- (Rupees Seven Lakhs Only) which is to be enhanced by 50% in cases involving minor victims.

15. Having regard to the age of the victim at the time of the offence, the sustained nature of the abuse, and the constitutional obligation to provide meaningful redress, we direct that a sum of Rs.10,50,000/- (Rupees Ten Lakhs and Fifty Thousand only) be paid to the victim as compensation as per the Scheme by the State of Himachal Pradesh in the peculiar facts of the case. Though the victim has now attained the age of majority, we are of the considered view that in order to protect her future interest, some amount if ordered to be kept in a fixed deposit, it would secure her best interest. Hence, we direct that a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) be kept in a fixed deposit in any nationalised bank for a period of 5 years in the name of the victim and she would be entitled to withdraw the quarterly interest. The balance, Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand Only) shall be paid to her by transferring the said amount to her account, the details of which shall be furnished by her to the Member Secretary, Himachal Pradesh State Legal Services Authority. It is needless to state that on maturity of the fixed deposit, the proceeds thereof shall be transferred to her account, and this process shall be monitored by the Himachal Pradesh State Legal Services Authority.

16. This Court reiterates that justice must not be limited to conviction, it must, where the law so permits, include restitution. In awarding this compensation, we reaffirm the constitutional commitment to protect the rights and dignity of child survivors, and to ensure that the justice delivered is substantive, compassionate, and complete.

17. In view of our observations made above, we find no infirmity or perversity in the concurrent findings of the Courts below, the conviction and sentence awarded by the courts below are found to be just, lawful and necessary. Hence, the Special Leave Petition stands dismissed in *limine*. Pending applications, if any, shall also stand disposed of.