

IN THE COURT OF
CHIEF JUDICIAL MAGISTRATE BARAMULLA
AT SOPORE.

CNR Number	File No.	Date of Instt.	Date of Judgment
JKBA-0600-0212-2017	300/B	16-06-2017	17-02-2025

In the Case of:-

UT of J&K through SHO Police Station Bomai.

FIR No. 22 of 2016

Offence U/S 377 RPC

Mr. Mirza Zahid Khalil APP for the Prosecution.

Ms. Ayisha Shakeel Zehgeer for PW8.

Witness _____ present in person.

VERSUS

Aijaz Ahmad Sheikh S/o Ali Mohammad Sheikh

R/o Mundji.

Mr. M.M Mir Advocate for the Accused.

Mr. B.A Malla Advocate for the Accused.

Accused Present in Person.

**In the Matter of: Judgment in Case FIR No. 22 of 2016 U/S
377 RPC.**

CORAM: Mir Wajahat.
JO Code:- JK-00162.

1. **Chronological Case Proceedings show casing substantial proceedings
of the case.**

- a. The charge-sheet in FIR No. 22/2016 under Section 377 RPC was presented before this Court on 16-06-2017. On the 10th hearing, vide order dated 11-10-2017, charges were framed against the accused under Section 377 RPC, and the contents of the charge-sheet form were read over to the accused, who pleaded not guilty and sought trial. The prosecution was directed to lead evidence.
- b. On 11-12-2017, the complainant PW1 engaged a counsel and filed an application contending that the Judicial Magistrate lacked

jurisdiction to try the case under Section 377 RPC, as per Schedule II of J&K Cr.P.C, which indicated that the offense was triable by the Sessions Court. However, the Court held that the CJM, Sopore, had jurisdiction to try the case. On the same day, after the framing of charges, the statement of PW2 was recorded.

- c. On 15-03-2018, PW3 and PW9 were present, but due to the absence of the Presiding Officer, their statements could not be recorded. On 24-03-2018, they were again present, but owing to the Presiding Officer being busy, their statements were deferred.
- d. On 17-05-2018, PW5 was present, but the accused was shown to be lodged in PSA and detained in Sub-Jail Kupwara, resulting in PW5's non-examination. Due to the non-production of the accused, the Court issued production warrants and show-cause notices against prison authorities.
- e. On 10-11-2018, PW11 was examined. On 29-12-2018, the accused was produced in custody, and PW3 was examined. The accused refused to cross-examine PW3, and the defense council also declined cross-examination. The Court, after granting multiple opportunities, recorded PW3's testimony and posed relevant questions. The witness was never recalled nor any motion was filed qua the witness.
- f. On 02-02-2019, PW4 was examined.
- g. COVID-19 lockdown disrupted court proceedings, and the case resumed effectively from 17-08-2021.
- h. On 19-07-2021, Advocate Altaf Khan filed an application on behalf of the victim, and the copy was provided to the prosecution and the accused's counsel for objections.
- i. On 18-12-2021, PW15 was present, and his statement was recorded but deferred due to the non-exhibition of seizures.
- j. On 18-04-2022, PW7 was recorded.
- k. PW15 appeared for further examination but was not recorded on 11-06-2022.

- l. On 27-07-2022, PW15 was present, but due to the absence of the accused, his statement could not be recorded.
- m. On 20-10-2022, PW13 was recorded.
- n. On 26-11-2022, PW14 was recorded.
- o. On 03-02-2023, the prosecution evidence was formally closed.
- p. The statement of the accused under Section 342 J&K Cr.P.C was recorded on 04-04-2023.
- q. Defense Witnesses were examined as follows:
 - 05-06-2023: DW1 (D-A) recorded.
 - 03-08-2023: DW2 (D-B) recorded.
 - 08-09-2023: DW3 (D-C) recorded.
 - 12-12-2023: DW4 (D-F) recorded.
 - 18-01-2024: Final opportunity granted to the defense.
 - 23-01-2024: DW5 (D-D) recorded.
 - 15-02-2024: DW6 (D-E) recorded.
- r. Final arguments were scheduled, but the accused sought multiple adjournments. Then the transfer of the Presiding Officer.
- s. On 18-03-2024, Advocate Ayshia Shakeel Zehgeer filed a Power of Attorney on behalf of PW1.
- t. On 23-04-2024, Advocate Ayshia Shakeel Zehgeer filed a Power of Attorney on behalf of PW8.
- u. **Application under Section 540 J&K Cr.P.C and Court's Decision.**

On 27-09-2024, the prosecution filed an application under Section 540 J&K Cr.P.C seeking to examine PW10 (uncle of PW8 and brother of PW1), whose statement under Section 164A J&K Cr.P.C was recorded during investigation but who was not examined as a prosecution witness during trial.

 - On 08-11-2024, the Court dismissed the application, ruling that:
 - PW10's statement under Section 164A Cr.P.C was hearsay and did not establish any first-hand knowledge of the acts of abuse.

- PW10 was available during the prosecution stage but was not produced for testimony, and the attempt to introduce him at the final stage of trial was unjustified after arguing before predecessor.
 - The accused himself, in his statement under Section 342 CrPC, acknowledged his occupation as a religious figure (Pir Baba), a fact undisputed by both prosecution and defense, making PW10's testimony redundant.
 - The victims (PW8 and others) had already testified that they voluntarily visited the accused, removing the need for corroboration by PW10.
 - The case had been pending for years, and reopening the prosecution's evidence at this stage would unduly prolong the trial.
- v. Final arguments were heard on multiple dates from the prosecution, as well as PW1 and PW8's counsel, being heard separately as well as from defence.
- w. The file was reserved for orders to be announced on 17-02-2025.
2. The case of the prosecution is that the complainant submitted an application before Police Station Bomai on 02-03-2016 stating therein that his son namely V-A studying in 10th standard, accompanied his paternal uncle D-Mto so called Molvi (accused) and that his son was visiting the Molvi (accused) for last few years. Few days back the uncle again told his son (victim) to accompany him to the Molvi (accused) however, his son refused, the complainant asked his son the reason for not going to the Molvi (accused), his son did not reply which made the complainant (father) suspicious that if his son was visiting the Molvi (accused) for the last few years than what happened. The complainant again asked his son the reason for not going to the Pir Sahib and his son told him that the pir sahib was doing wrong and unnatural acts with the kids and that he (son) too has become the victim of his lust.
- a. Upon receipt of the information, FIR bearing No. 22 of 2016 under Section 377 of RPC was registered and investigation was taken up.

b. The investigation in this case commenced immediately after the registration of the FIR on 02.03.2016, following which the Superintendent of Police (Sopore) constituted a Special Investigation Team (SIT) to ensure a thorough, impartial, and specialized probe into the allegations of sexual abuse against multiple victims. The SIT, comprising senior investigating officers, child protection officers, and forensic experts, was tasked with collecting material evidence, recording witness statements under Section 161 and 164-A J&K CrPC, and corroborating testimonies with forensic and medical reports. During the course of investigation, the statements of key witnesses, including PW1 (father of PW8), PW8, PW3, and other victims, were recorded under Section 164-A J&K CrPC before a Magistrate to ensure evidentiary integrity. The SIT also conducted site inspections of the accused's residence, examined documentary and circumstantial evidence, and collected forensic samples that were later subjected to medical examination. Upon gathering sufficient material to substantiate the allegations, a detailed chargesheet was filed on 15.06.2017 under Section 377 RPC before the competent court, marking the culmination of the investigative process.

3. **Prosecution Evidence.**

a. **Statement of PW1 P-D S/o Lt. P-G R/o Shalimar Colony Sopore recorded on 09-11-2017 on oath.**

On examination in chief, he stated that the deponent knows the accused present in the court through his brother N-A who used to visit the accused. The accused present in the court used to work as a Pir Baba. The deponent states that he has visited the accused two or three times. **The accused present in the court used to tell us to bring children to him in the night so that they can converse with the Jinn. Accordingly, the deponent took his son to the accused, continuously for four years starting from the year 2013 (Meaning**

from 2013 to 2017). After that, the children (plural) refused to go the house of the accused present in the court. The deponent cannot himself state the reason why the child (Singular) refused to go there but the child (singular) told the deponent that they would not go the house of Pir Baba i.e the accused present in the court. The deponent upon insisting was told by the children (plural) that Pir Baba i.e. the accused present in the court used to do wrong acts with them. Deponent's child told him that the accused used to do wrong with them meaning that he used to have unnatural intercourse with them. Hearing this mind of the deponent went numb. After one hour, he thought to himself whether he should go to police or approach SSP sahib. After giving it a thought, the deponent went to SSP sahib. The SSP at the time was Abdul Qayoom sahib. SSP sahib on being told by the deponent made the clerk write the application. Whatever was told by the deponent was written by the clerk in the application. After this, SSP sahib transmitted the case to SHO Police Station Bomai. Accordingly, an FIR was registered against the accused in the said police station on which the sign of the deponent was taken on the FIR. On the next day, the police called the deponent and called for information regarding the incident. The deponent's statement was penned in the police station and the deponent made a similar statement in the police station as he had made in the court. The statement read out is true and correct. The deponent's satisfactory identity on the statement is true and correct. The application that the deponent gave to the SSP sahib was seen by him in the open court. He confirmed the identity as well the signature on the same is his own. It has been marked as EXPW - 1. The FIR on which the signature of the deponent was taken was identified in open court as true and correct. After that, whether the deponent made or gave any other statement or whether he gave it to somebody else, he

is unable to recollect. This forms the pattern and order in the statement of the deponent.

In reply to the cross examination by the lawyer of the accused, the deponent clarified that his son made no complaint to him against Pir Sahab i.e the accused. The deponent never went with his son to the house of Pir Baba i.e the accused present in the court. The deponent used to send his son to the house of the accused but he never himself went there. The deponent was informed about the incident by his son but the deponent does not exactly remember the date when his son informed him about the incident. The deponent has no relation with P-E and he does not know him since he resides in Arampora Sopore. Deponent also does not know V-C Sofi. N-H is known to the deponent. Deponent also knows P-F. N-G is not known to deponent. N-F is (?) known to him. N-G is also not known to him. The Deponent did not send his son to the house of the accused. However, the brother of the deponent used to take him since he had some want (Haajat). The deponent asked his brother that why he takes his son to the house of the accused to which his brother replied that he had a medical situation at his home. For this reason, the paternal uncle used to take his nephew to Pir Baba, accused. The Deponent has no personal information. **The Deponent and his brother had been told by the accused to bring children to him.** Who wrote the application or whether any statement was taken from him or not is not personally known to the deponent? The deponent has studied till 6th Standard. He can't read English, but he can read Urdu and can also write it a little bit. No further questions were asked.

b. Statement of PW2 P-E S/o N-I R/o Armpora Sopore Occupation Farmer aged 49 year recorded on 11-12-2017.

In reply to the question of the lawyer, the deponent's sister had a problem in the knees and the deponent used to go to the accused for this purpose. The deponent used to go to the accused for Taweez.

There the accused used to tell them that you should bring children below 12 years of age to him so that they can converse with the Jinn. The Deponent took his nephew namely V-B to the accused. V-B then went to the accused five or six times for five or six weeks and after that he refused to go to the accused. This is an incident of 16 years ago or so. At that time, the nephew of the deponent namely V-B was 12 years old. The deponent's son namely V-C was ill and he was suffering from a heart ailment/problem. He has been taken to the accused three four years ago. The son of the deponent went to the accused twice and after that he also refused to go to the accused. The deponent asked for the reason but at that time he did not give any reason. **After some time, he said that the accused had taken off the pant of one child and after that he refused to go to the accused and stayed at home.** At that time the nephew of the deponent namely V-B had gone outside the state. After returning, he was very was angry and told the deponent that why did he send his son to the accused. Then in 2016, after two three years in the month of March, it came in the news on television that the accused sexually abuses children. On 3rd March, 2016 when it came in the news, the deponent went to the office of the SDPO and there the deponent gave the same statement and requested them to make an investigation against the accused. . On March 6th, 2016 the deponent went to the SDPO for giving his statement. In the statement recorded under Section 161, it was wrongly written by the police that the day on which the statement was given was 6th March 2015. The deponent was in the office of the SDPO from 10 a.m to 12 pm and it was Sunday that day.

In reply to the cross examination by lawyer of the accused, the deponent confirmed that he made the same statement in the court as he had made to the police. The deponent's sister made no statement to the police. At the time when the deponent took his nephew namely V-B to the accused, his son was very small. The nephew namely V-B

did not use to go by his own will but was forced by the deponent to go there. The nephew did not want to go to the accused and he was unaware to do anything. As soon as, V-B returned from outside, he asked the deponent to do investigation (Karawai) and told him that why did he still go to the accused. Then V-B did some investigation on his own. What investigation V-B did is not known to the deponent. The deponent has not gone to the police before 6th March. No other questions were asked.

c. Statement of PW5 P-F S/o N-J R/o Gund Brath Occupation Business aged 27 years recorded on 31-05-2018.

In reply to the question by P.O, the deponent stated that I know the accused present in the court. The deponent used to study in 3rd standard. The accused used to teach the Holy Quran to the deponent and also had been taught by him in Sideeqiya Public High School Gund Brath Sopore. The deponent was good in studies, therefore, he had cordial relations with his teacher, the accused. As a teacher and student, their relationship was cordial. The accused used to call the accused near the school when nobody was present there and used to bite him on his cheeks very forcefully. When the accused saw that the deponent made no objections, he told the father of the deponent that he will take the deponent with him. The accused was a tenant of one Mohammad Akbar in Dangarpura and at the same time he was the Imam of the local Masjid. The accused brought the deponent to his rented premises where they stayed for the night. At night, the deponent and the accused slept together but the first night, the accused did nothing with the deponent, only hugged him tightly. The next time, the accused forced the deponent by saying that “you have to come with me”. The accused told the deponent that he has to do a work for him in return of which he will be rewarded with a gift. When the deponent went with the accused to his rented house at Dangarpura, a person was present in the house of the accused and the

accused told the deponent that somebody had done Taweez to that person. On that day also, the deponent spent the night at the house of the accused and the accused made the deponent understand that he will recite some Aayats which the deponent has to repeat after him of which the first was the Dua for Sleep and the rest of the Aayats were unknown to the deponent. The accused had beforehand informed the deponent that after reciting those Aayats Jinn will enter the body of the accused and after those Aayat the accused used to pretend to talk like a Jinn to show the deponent that the Jinn has entered his body. Then the accused used to ask the deponent that why has he come here. The accused had told the deponent that when the Jinn will ask him why he has come here, he should reply by saying that he has come to do the work of a person. The deponent had to tell the name of his father and also of his mother. After that the accused had a Jerk (Jhatka) and the accused told the deponent that the person of whose work he has come to do has been affected by black magic which the accused had already made to understand to the deponent that he should ask the Jinn to provide relief from black magic to that affected person. Then the accused on the pretext of being Jinn used to tell the deponent that he also should do his work. As the deponent thought that the accused was a Jinn, he used to get very afraid. Because of this fear, the deponent used to become ready to do the work of the accused. Then the accused used to tell the deponent that he will lay over deponent. The accused used to lay over the deponent but did not used to remove his clothes. The accused took off the trouser of the deponent but did not penetrate on that very night but he had removed his clothes and after satisfying his amusement, he got down from the deponent. The accused told the deponent that he had gotten Taweez from the Jinn and after that he used to keep the Taweez in his jacket and apparently used to tell the deponent that he had gotten Taweez from the Jinn. After that the accused had a sudden

jerk and apparently come into his human form from being a Jinn. Then the accused used to ask the deponent whether the work of that person was done or not and also whether Jinn had done something to the deponent to which the deponent used to say nothing happened (what could he say?). Then the accused hugged the deponent tightly and slept with him. Next day they used to go to the school. The accused used to call the deponent frequently and then one day told the deponent that the person whose work you have done has sent a gift for you and the accused for the first time gave the deponent a sum of thirty rupees and also told the deponent that he would have to do more work for which he will get more money. Then one time, the accused took the deponent to his home (tenanted place) once and repeated the same which the deponent has already stated in the statement but this time on the pretext of being taken over by Jinn told the deponent that he wants to penetrate him. The deponent tried to stop the accused but the accused lured the deponent into thinking that it would not cause any pain or harm to the deponent. The accused used to penetrate the anus of the deponent (Anal Penetration). The accused used to spit on the anus of the deponent and then penetrate him and the accused used to close the mouth of the deponent with his left hand so that the deponent could not scream and used to shut the voice of the deponent. The deponent used to suffer from very severe pain from this brutal act of the accused. The accused gratified his lust, and repeated the same which the deponent has already stated in his statement. The deponent used to think that all this was done with him by the Jinn and the accused had nothing to do with it as when the accused came to being a normal human from being a Jinn, he told the deponent whether the Jinn had done any wrong with him. To this the deponent replied in negative, however, the accused was adamant and lit a candle and told the deponent that he wants to inspect the Anus of the deponent to know whether the

Jinn has done any wrong with the deponent. But the accused used to do this himself and then use to do drama. After inspecting the anus, the accused told the deponent that the Jinn has done a wrong with you. The deponent came to know the reality of the accused on that night when the accused told him that he stays away from his wife and goes to home only once in a week, and told the deponent that he should stay with him to fulfill his lust and begged the deponent for this. The deponent vehemently refused and told the accused that he would report the accused to the Headmaster namely Muhammad Akbar. After that the deponent stopped going to the house of the accused. Despite this, the accused after asking the father of the deponent, used to take him to his another tenanted place at Gund Brath. At new rented place, he used to call the people and pretended to take Jinn out of them and used to tell the people, that came to him, that they had been affected by black magic and also used to tell them to bring a boy aged upto twelve years with them to rid themselves of black magic. Then one day the accused took the deponent with him to his new rented place which was not far away from the home of the deponent and repeated the same with him at about 8:00 pm as has already been stated by the deponent and whatever wrong was done by the accused with the deponent was done by him in darkness (no light). When the deponent passed his 5th standard examination, the accused was transferred as Imam to Puhroo Paeth (?) but then was told that there is no transfer as the school administration had removed him behind closed doors for some unknown reason. The deponent is not fully aware but the son of the Headmaster namely AP-B who was of the same age as that of the deponent, also used to go to the deponent or not. After this the deponent had no contact with the accused but this thing was eating the deponent from inside. He suffered emotional and mental trauma due to this. No question was asked after this.

In reply to the cross examination by the lawyer of the accused, the deponent replied that he is aged 27 years. He is currently doing business. In 2014, the deponent completed his education. The deponent completed his degree in Business Management in 2014. This degree took him two years to complete but three years before this, the deponent was outside the state. The deponent has no relative in Sopore. There is no Sarpanch in Brath but one N-N is a Numberdaar in Brath. He became a Numberdaar nearly 10 years before. Before N-N, N-O was the Numberdaar who was killed but he was among our relatives and the current Numberdaar is also our relative. The deponent was born on 03-02-1991. The deponent knows the accused since 1998. At that time, the deponent was studying in 3rd standard. V-D (?) W-A S/o W-B, V-E S/o W-B, V-F S/o W-C, V-G S/o W-D all residents of Brath and others were the classmates and villagers of the deponent. In those days, there were 8 teachers in the school. Their names were Aijaz Ahmad Sheikh, N-K Mir R/o Brath, W-E Headmaster and one whom we used to call N-L, N-M R/o Wadura. These are those teachers who used to teach the deponent. The five teachers who used to teach us have been named by the deponent. There were other teachers as well whose names the deponent cannot recall but said that if he put more effort he can recall their names also. Time was given to the deponent and within one minute he named one teacher as Mir Sahib. Before the incident did happen with to him, there were other children also who used to go with the accused and became his victims. All the victims of the accused were not known to each other and had no meeting among themselves although there were rumours in the school about this. The deponent discussed the rumours with his friends namely V-G and W-F but these rumours spread only after the deponent visited the house of the accused. Before the deponent went to the house of the accused, children already used to go there. The deponent did not

reveal to anybody of what had happened to him but his friends used to tease him and tell him that the accused must have done the same wrongful act with you also. The deponent did not ask them whether they had made a complaint about this to their parents or not. The deponent could understand that the accused used to do the same with his believers but still the deponent could not talk about this incident with anybody. The deponent has studied the Holy Quran in Dar ul Aloom Ribban. In two months the deponent has learned the Holy Quran with pronunciation. The deponent used to study the Holy Quran before that also because the deponent used to study in the school of Fallah-e-Aam trust where the children are taught the Holy Quran from the very childhood. The deponent studied there till 5th standard. The deponent has studied LKG, UKG from this school. The deponent studied in this school for seven years but in which year the deponent got admitted in this school is not known to him. At the time of the incident, the deponent used to live in the joint family along with his father N-J, his mother N-P, Uncle N-Q who was not married. The aunt of the deponent who used to go to the accused along his grandfather and grandmother. The deponent has an elder brother and a sister. His older brother is namely N-R. In those days, the family of the deponent was totally disturbed because his parents did not have a good relationship. His mother in those days used to live more often at her parents home. The deponent did not discuss his situation with anyone at home. The deponent used to sleep with his uncle, but in a separate bedding. In that very room, the elder brother and grandfather of the deponent also used to sleep. The deponent can not tell whether he used to bleed or not but he used to feel very painful. He cannot recollect upto how many days he used to feel pain from this brutal act. The deponent has not suffered that much trauma. V-B who was one of the victims of the accused, to this day, of trembles upon remembering what he suffered at the hands of the

accused but this does not happen with the deponent because the deponent was very small at that time. The deponent did not know V-B till the year 2016. V-B was married two/ three years ago, however, the deponent has no relation with the personal life of V-B. However, he (V-B) these days residing in Sweden. V-B through Facebook had opened one page "Child Preventive Care" which he shared. Then the deponent messaged V-B and told him that "he also knows accused" and then the deponent told about his incident to V-B because he told him that he has also been a victim of the accused. There was a gap of almost ten years between the happening of the incident with deponent and of him telling about incident to V-B. But in-between the deponent did not discuss or tell about this incident to anyone. The statements made in the court today by the deponent were not told to the police earlier because whatever was told in the court today was told in reply to the lawyer. The statement of the deponent was penned down by the police. Before this, the deponent had not given any statement anywhere. The deponent made his statement before an IPS officer namely Ashish Singh in the SP office which was written down by the clerk. The medical examination of the deponent was not done. The uncle of the deponent has filed a case against the accused of whom the deponent does not know. The police did not pen down the statement of any person other than the deponent in his presence. This is true that the deponent used to go to the rented place of the accused but he did not go to his home because he did not know where the house of the accused is but he knew that the accused resides in Mundaji. The deponent has gone to Mundaji village. In Mundaji, the house of the maternal uncle of the friend of the deponent namely V-D W-A is situated. The deponent has not signed any other document other than the statement made to the police. No other question was asked.

Note; Demenour recorded by court during the examination of the witness, tears trickled down his cheeks.

d. Statement of PW8 V-A S/o N-B R/o of Shalimar Colony Sopore Occupation Student aged 18 years recorded on 24-10-2018.

In reply to the question by the PO, the deponent stated I know the accused present in the court. It is the incident of 2012 when the deponent was studying in the 7th standard. In 2012, the deponent went to the house of the accused present in the court with his Uncle N-A. The uncle of the deponent had a family issue/problem for the resolution of which the Uncle of the deponent said that we should go to Pir Baba. We reached the house of Pir Baba at about 1:00 pm where the accused sent the deponent to other room where another child was already present. When the Jinn entered the body of Pir Baba i.e the accused, he told the deponent that his uncle has some problem. When the deponent told the problem to the Jinn, the Jinn replied that the work cannot be done in the day and work can only be done at night. The deponent stayed for the night at the house of the accused while the uncle of the deponent left for home. At night, the bedding of the deponent was laid down by Pir Baba himself and also fed him. Before sleeping, the Pir Baba called upon the Jinn again. The name of the Jinn was told to be Junaid. After some time the socalled Jinn i.e the accused took off the clothes of the child already present in the room and raped him in front of the deponent. The accused then told the deponent to take off his clothes also but the deponent declined. The accused threatened the deponent that if he told about this incident to anybody, he will destroy his whole family. Then the accused had a non consensual illicit intercourse (rape, Zina e Biljabr) with the deponent also. At the time of the rape, the accused had closed the mouth of the deponent. Then the accused made the deponent to rape the other child already present in the room and also made that child rape the deponent. In other words, he made them do

cross sex. When the deponent woke up in the morning, his pant was full of blood. The deponent went to the house of the accused regularly for four years and the accused used to rape the deponent continuously for four years as the accused had threatened the deponent that if he informed anybody, he will blow up the house of the deponent. The accused has raped many other children also. Because of this the studies of the deponent were also affected. The accused had told the deponent that I will make you pass the examination of the 10th standard. Then the deponent did not allow his brother to go to the accused and also told his father about the incident. After which the father of the deponent wrote an application to SSP Sopore. SSP was Fayaz (?) sahib. The SSP sahib raided the house of the accused. Then the father of the deponent filed a case in the Police Station. The deponent in this regard recorded his statement in the room of the Judge Sahib on 03-03-2016. The statement was signed by the deponent. The statement of the deponent under Section 164-A was read over to him on which the signature of the deponent are inscribed in Urdu. The statement therein and the signature have been accepted as true. It has been marked as EXPW-8. No further question was asked.

In reply to the cross examination by the lawyer of the accused, the deponent stated that N-A is the uncle of the deponent. P-E is not the relative of the deponent. The deponent does not know for how many years before the incident his uncle used to go to the Pir Baba i.e accused. The deponent does not know whether other children who were the victims of the accused have filed any complaint or not. Before the incident, the father of the deponent did not know the accused namely Aijaz Ahmad Sheikh. N-A is the uncle of the deponent who has four children namely P-A PW11, Ghulam Hassan, Ishfaq Ahmad. There was no relation between the accused Aijaz Ahmad Sheikh and the uncle of the deponent. The day on which the

statement of the deponent was recorded before the Judge was 03-03-2016 but the deponent can not recollect what day it was. The police took no statement from the deponent. After making the complaint to the SSP Sahib, the next day the deponent made his statement before the Judge Sahib and on that day nobody else gave their statement. The father of the deponent was accompanying him on the day when his statement was recorded. The deponent did not inform anybody till four years because the accused had threatened him. The blood stained pant was not shown by the deponent to his parents. Upon being asked by the parents about the pant, the deponent replied that he has given his pant to his friend. On the next day of the incident, the deponent could not walk properly but in his home he pretended to walk properly as if nothing had happened and did not let his family members feel anything about this incident. The deponent did not let anyone feel anything for four years. No further question was asked.

e. Statement of PW11 P-A S/o N-A R/o Shallapora Sopore Occupation Salesman aged 22 years recorded on 10-11-2018.

In reply to the question by the PO, the deponent stated that he knows the accused present in the court. The deponent knew that accused since the time he was studying in 10th standard. The deponent was very poor in studies. His friends recommended him to go to the accused who will give him a Tawez because of which the deponent will be able to pass the examination. When the deponent went to the accused, the accused told him that he has to stay for the night. At first the deponent was reluctant but upon being insisted by the accused he was forced to stay. When the deponent had food at night, the accused called him and told him to bow down his neck saying “I have to call upon the Jinnaat”. When the deponent bowed his neck down, then after two minutes, he heard a voice greeting him and he replied to his greeting (Salaam). Then he was asked what is the

matter to which the deponent replied that he is very poor in studies. Then the deponent was told to stand up. Then he was told to turn backwards and stand straight after which he was told to remove his pant. The deponent refused. The accused threatened the deponent and told him to remove his pants. The accused was on his bedding and told the deponent to sit near to him. Then the accused did the wrongful deed with the deponent. The accused threatened the deponent that if he told about the incident to anybody, he will harm his family members. The deponent during the night slept with the accused. The next day the deponent went to home but the accused called him on phone and threatened him because of which the deponent was compelled to go to the accused again. This thing continued upto about one year. In regard to this case, the deponent has already made his statement before the Judge Sahib in the year 2016. No further question was asked.

In reply to the cross examination by the lawyer of the accused, the deponent stated that his age presently is 22 years. About five/ six years ago before, the deponent had gone to the accused alone. The deponent has gone to the house of the accused about one hundred times. The deponent has spent about 30-40 nights in the house of the accused. In those thirty to forty nights, the accused did the wrongful deed with the deponent. The accused after removing the pant of the deponent used to rape him. The deponent used to suffer from pain but did not use to bleed. On the next day, when the deponent use to walk, he could not walk properly and suffered from pain but the deponent was not able to tell his parents. P-D PW1, one of the witnesses, is the uncle of the deponent. V-A, one of the Prosecution Witnesses under PW 8 is the paternal cousin (chachera) of the deponent. N-A is the father of the deponent. The deponent while studying in the 10th standard was poor in his studies. He was aged 16 years when he studied in 10th standard. When the deponent went

to the home of the accused for the first time, some people were present there but the deponent does not know them. The accused did not know the deponent neither the accused had any relation with the family members or the relatives of the deponent. This statement is correct that the accused and P-D PW1, the Uncle of the deponent had some personal relationship and went to each others house as well, but the deponent did not know whether they had any business relationship between them or not. The deponent does not know whether his father and the accused has any personal relationship before the incident or not. The statement which the deponent gave today in the court has already been given by him before. The accused did not use to come to our home but he often used to visit the home of my uncle. The deponent has two brothers and five sisters. This statement is correct. My family and that of my uncle often used to visit the house of the accused. The deponent is unaware about whether there was any relationship (lain dain) between his family and that of his uncle's family with the accused. The deponent has to come to the court to make his statement of his own volition. The deponent was informed by his lawyer that the hearing of the case is today. The deponent was not told by his lawyer about what statement he should make in the court but the deponent already knew what statement he has to make. The deponent does not recollect when he made the statement in the court but the deponent was brought to the court by the police to give his statement. That the deponent made the statement of his own volition. The same statement was made by the deponent in the court then which he made today in the court. The deponent does not recollect which of his friends gave him the recommendation to go to the accused. The uncle of the deponent already used to go to the accused. The accused was very reputable as a Molvi because of which the friends of the deponent suggested him to the accused. Many people used to visit the accused. The deponent

does not know whether people today go there or not. No further question was asked.

**f. Statement of PW3 V-C S/o P-E R/o Gul Abad Arampora Sopore
Occupation Student aged 18 years recorded on 29-12-2018.**

In reply to the question by the PO, the deponent stated that he knows the accused present in the court. When the deponent was a student of 6th standard, he knows the accused from then only. The father of the deponent used to visit the accused since he used to do the work of Peeri and Darveshi. The deponent would get very afraid during the night so his father took to him the accused. When the deponent visited the house of the accused, the accused took him to a separate room and told him that the deponent has a shadow of a Jinn looming over him. The accused told the deponent to close his eyes and a Jinn entered the body of the accused. The accused pretending to be a Jinn asked the deponent what was the matter with him. The deponent replied that he gets very afraid during the night. Then we came out of the room and the accused told the father of the deponent that the deponent has to stay in the house of the accused for the night. The father of the deponent returned to his home and the deponent stayed at the home of the accused for the night. There were already two more boys present in the house of the accused of which one was elder than the deponent and the other was smaller than him. The accused told the deponent to rape the boy smaller than him named P-Band hearing this the deponent was shocked. The deponent refused to do so. The accused told the deponent that he (deponent) was Gay to which the deponent agreed. The accused then asked the deponent whether he has ever had sex with any boy or any girl. The deponent replied that however I may be, I agree to it but deponent would not rape the small boy. After this, the accused in the presence of the deponent raped that small boy namely P-Band that small boy cried a lot. Then the accused told the deponent that unless and until the

deponent does not do so that Jinn would not be happy with him and the Jinn would not help the deponent. After this the accused told that small boy to do the same (rape) with him (accused) and he did so. The next day the deponent went to his home and told his father that he will not again go to the accused 's home because he is not a good person and narrated the whole story to him. Afterwards, the deponent gave his statement in front of a police officer only on 6th March, 2016. The statement goes like this. No further question was asked.

In the cross examination by the lawyer of the accused, the lawyer was given the permission to cross examine but the lawyer of the accused refused to cross examine the deponent and went outside. The lawyer of the accused was repeatedly called to cross examine the deponent but he did not make his presence in the court. Therefore, the accused present in the court was given opportunity by the court that if he wants to ask any question to the deponent, then he can do so now. The accused said that he does not want to ask any question to the deponent.

In reply to the question by the court, the deponent stated that at the time of the incident the age of the deponent was 15 years.

Question: You have stated in your statement that accused told you that you are a Gay. How did the accused know that whether you are a Gay or not?

Answer: When the deponent refused to have sex with that small boy, because of this the accused asked the deponent whether he was a Gay.

Question: You have stated in your statement that there was another boy in the room who was elder than the other boy in the room. How old was he and what was his role during the incident?

Answer: That elder boy was present there. The deponent cannot say how much older he was but certainly could say that he was older

than the other boy namely P-B. He was seeing everything and was very astonished.

Question: What was the name of the older boy?

Answer: The deponent does not know his name.

Question: You have stated in the statement that you have given your statement to the police on 6th March, 2016. What action was taken by the police?

Answer: The police took action and the accused was caught and then the deponent faced many threats from the side of the accused and then the police presented the case before the court and the hearing (?) and witnesses were produced.

Question: Where does the accused live and at the time of the incident who else was present in the house of the accused in addition to the two other boys?

Answer: The accused resides in Mundaji. The father of the accused who was blind, his wife and his small son were present in the house. In addition to them, there was older boy and a girl who studied in Dar ul Aloom and there were other two boys as well who resided in Misarhal. Those two boys also resided there but in a separate room.

Question: The house to which you went on the day of the incident, was it the own house of the accused or just his tenanted place?

Answer: It was the house of the accused and was two storey house.

Question: How many rooms were there in the house of the accused?

Answer: The ground floor had four rooms. The deponent did not visit the 1st floor, therefore, he cannot say how many rooms are there in that floor.

Question: On the day of incident, at what time did you go the house of the accused and whom did you meet first?

Answer: The deponent went to the house of the accused at about 3 pm and he met the accused first.

Question: When did your father leave the house of the accused?

Answer: At about 7 pm.

Question: What did you do at the house of the accused from 5.30 pm to midnight?

Answer: The deponent was sitting in the house of the accused and the devotees of the accused kept coming until 8 pm and then we had food.

Question: Who brought the food in front of you and who else had food with you?

Answer: The two boys from Misarhal brought the food and in addition to us three boys, the accused, his father, wife and son had food at that time.

Question: The son of the accused who had food with you, how old was he?

Answer: The son of the accused was smaller than the deponent.

Question: You have stated in your statement that the small boy shouted and screamed a lot when the accused raped him. Did no individual of house inquire about why the boy was screaming and shouting?

Answer: Nobody in the house came to the room after hearing the shouts and screams of the child.

Question: How do you know that two children of the accused are studying in Dar ul Aloom and how did you come to know about the map of house and how many rooms it has?

Answer: The two boys of Michal told the deponent that the two children of the accused are studying in Dar ul Aloom. The accused was sitting in one room when the deponent went to his home. In other room, we had food. The accused took the deponent to third room when he went to the house of the accused. In the fourth room we had laid down the bedding.

Question: At what time did you go to sleep?

Answer: At about 9 pm.

Question: Did the accused rape P-B at that very moment when you went to sleep?

Answer: About half an our later, the accused raped him.

Question: Were the two boys already present in room when you went to sleep i.e P-B and the boy whose name you do not know?

Answer: Yes, they were already present in the room.

Question: For how long did the accused rape P-B?

Answer: Till midnight it went on. Probably two to five hours.

Question: When the incident happened why did you not leave the room and why did you not call for any help?

Answer: Because the accused had threatened us if we told about this incident to anybody, then the Jinn of the accused will harm the our families and will also inflict any major harm on the deponent.

Question: When did you sleep and when and where did the accused sleep?

Answer: The deponent could not sleep but whether the other two boys slept or not is unknown to deponent because the room was dark. The accused also slept in the same room. We slept in the same bedding (bistar). The deponent slept at one end, while the accused slept next to him. The other two boys slept on the other side of the accused.

Question: Why did you ask the two boys from Michal questions related to the family of the accused?

Answer: The deponent asked no questions to the boys from Misarhal relating to the family of the accused. Instead they themselves told the deponent about the same. The next day the deponent was in the house of the accused till 11 am.

Question: What was the reason that you did not go to your home early in the morning despite the fact that you perceived the accused as a bad person like you have stated in your statement?

Answer: Because the deponent was small and did not know the way back to his home.

Question: How far is your home from the house of the accused?

Answer: The deponent cannot say anything. The two boys from Michal on being told by the deponent took the accused to Sopore and boarded him in a bus. The fare was paid by the deponent.

Question: How many times did you go to the house of the accused?

Answer: The deponent before the incident and after the incident, only went to the house of the accused one time. Before the incident, the deponent had gone to the house of the accused only once but did not stay that day for the night.

Question: How does your father know the accused?

Answer: The deponent's father had heard that the accused is a Pir Baba

Question: Did the accused visit your home frequently?

Answer: Yes, he did frequent our house because the father of the deponent used to call the accused to his house so that he can see that whether anybody has done black magic on them.

Question: Why did your father take you to the accused?

Answer: Because the deponent used to get very afraid during the night and used to have a dream that someone was putting nails all over his body. No further question was asked.

g. Statement of PW4 W-A S/o W-B R/o Shallapora Sopore Occupation Unemployed aged 19 years recorded on 02-02-2019.

In reply to the question by the PO, the deponent stated that he knows accused present in the court. I do not remember with certainly as but I think I know the accused since 2015. The deponent went to the accused but does not remember when. The deponent went to the accused with his friend whose name the deponent cannot remember. The deponent's friend had some work with the accused. The friend of deponent had some conversation

with accused and afterwards they left from there. Then the deponent never went to the house of the accused but one day the accused called the deponent and the deponent came out of his home. The accused told the deponent to come to him as he had some work with him. The deponent asked for permission from his father and after taking the permission of his father, the deponent went to the house of the accused. The deponent went to accused but he does not remember on what date he went to the house of the accused. Then the accused told the deponent that your work is going through a bad patch these days. Then the deponent went to home and narrated this incident to his father who confirmed that what the accused told was true and the work was really going through a bad phase. After this, the deponent again went to the accused at Mundaji and the accused told the deponent that you have to stay for the whole night. Then the deponent stayed for the night where they were two boys. The accused then told them that you have to converse with Muwakkil (Jinn). Then they were taken to the other room and the accused told us that you have to converse with the Muwakkil. The accused told us that the Muwakkil will enter him. The accused pretending to be Muwakkil told the deponent to stand up and then the accused told the deponent to remove his pant. Then the accused misbehaved with the deponent and in the morning, the deponent went from there. The deponent cannot say how the accused misbehaved with him. The deponent vividly remembers the whole incident but due to some reason cannot disclose the same. The deponent went to home next day all alone. When the accused misbehaved with the deponent, the other boy was not present in the room. The deponent does not know the other boy. After this incident, the accused again called the deponent and he reluctantly went to the accused because the deponent was threatened by the accused that if he disclosed anything to his

family, than the Muwakkil will cause great harm to his family. The second time the deponent went alone to the house of the accused but there was a boy already present there whom the deponent does not know. The accused then again repeated that you are having problems in your home. You have to speak to the Muwakkil again. Then we went to the other room and that other boy was also with us. Then the deponent talked with the Muwakkil. The Muwakkil told the other boy to stand up and ordered him to remove his pant and told the deponent to do the wrongful deed with that boy. Then they came out of that room and the next day the deponent went to his home. The deponent went to the house of the accused for about one year. Through that year, the deponent went to the house of accused 10 or 20 times and the accused did the wrongful deed with him about five or six times. The deponent cannot tell in which class he was studying during the time he used to go the house of the accused. No further question was asked.

In reply to cross examination of the lawyer of the accused, the deponent stated that he knows Prosecution Witness Challani No. 1 namely P-D as he is the neighbour of the deponent. V-A, Prosecution Witness Challani No. 8 also known to me is a distant friend of the deponent. P-F Prosecution Witness Challani No. 5 is known to me from some days. P-E Prosecution Witness Challani No. 2 is not known to me. The deponent was told by Prosecution Witness Challani No. 5 that today is the hearing of the case and that we have to go there and he accompanied the deponent to the court. The deponent failed in the examination of 10th standard and has to reappear again but nowadays I am at home only. The deponent used to study in 10th standard in the year 2016. The two closest friends of the deponent from last two years have been W-C and W-D both of whom are residents of Gul Abad Sopore. The deponent came to know that a case has been filed against the accused through

Prosecution Witness Challani No. 8 V-A. The deponent was told of this in the year 2016 and the deponent was told by the Prosecution Witness Challani No. 8 that he is also a witness in the case. The deponent cannot say how far (in kms) Mundaji is situated from Sopore. The deponent told that there are two three-four villages in between Sopore and Mundaji. Then told two or three. The deponent was able to recollect that he went to Mundaji but no one was accompanying the deponent. The accused sent a person to call the deponent but the deponent did not know that person nor can recall him but the deponent had met with accused once before that. The first time when the deponent went to the house of the accused, he was accompanied by a person whose name the deponent does not remember. The person who was accompanying the deponent had some work with the accused but the deponent cannot recall his name. The person accompanying deponent to the house of the accused for the first time was the friend of the deponent but now the deponent cannot recall his name. On the day when deponent went to the house of the accused, there were already two-three persons present there. The second time that the deponent went to the house of the accused, that time also two three persons were present in the house of the accused. The deponent does not know for what purpose those people had come to the house of the accused. When the accused did the wrongful deed with the deponent, the deponent suffered from bleeding which stained the clothes of the deponent. The deponent on reaching home, took off those clothes himself, kept them separately and washed them himself. The deponent was able to walk a bit after the incident but he felt little uncomfortable while doing so. The deponent did not go to any doctor and neither did he bring any medicine. The deponent did not inform his family about this incident. Before this, the deponent has given his statement in the town hall. The deponent

does not remember what statement he gave at that time. But the deponent remembers that he gave his statement in the town hall but what statement he gave is not known to him. If the police has said that the deponent has given a statement in Bomie then it is absolutely wrong. This statement is also correct that the accused told the deponent that he should do the wrongful deed with other boy but the deponent does not know that boy. This statement is also correct that accused told the deponent that he should do the immoral wrongful deed with the other boys but the deponent does not know the other two boys. When the deponent went to the accused for the first time he did not know the accused and neither did the accused know the deponent. The deponent's father is a Waaza (chef) by profession. This statement is correct that the father of the deponent does sometime go the house of the Prosecution Witness Challani no. 8 to make/prepare Wazwaan but the father of the deponent does not have any special relationship with the family members of the Prosecution Witness Challani No. 8. This statement is absolutely wrong that we have business/trade relations with the Prosecution Witness Challani No. 1. This statement is also wrong that there has been a Partnership deed between the father of the deponent and the Prosecution Witness Challani No. 1. Before the incident the deponent did not know the Prosecution Witness Challani No. 5 namely P-F. Before the incident the deponent knew Prosecution Witness Challani No. 8 namely V-A who told the deponent that a case has been registered against the accused because the deponent and Prosecution Witness Challani no. 8 resided in the same area (Mohalla). Therefore, they were known to each other. The deponent cannot say how much time has elapsed since Prosecution Witness Challani No.8 has left the area (Mohalla) in which they resided. The deponent cannot say how far from his home the Prosecution Witness Challani no. 8 has gone to reside but

the deponent kept on meeting the Prosecution Witness Challani no. 8 since he used to frequently come to area (Mohalla) in which deponent resides although he never visited the deponent's home.

This statement is correct that accused and the Prosecution Witness Challani no. 8 beforehand knew each other and it was only through Prosecution Witness Challani no. 8 that the deponent got to know the accused.

However, this statement is absolutely wrong that we had any family relations with Prosecution Witness Challani No. 8. No further question was asked.

In reply to the question by the court, the deponent stated that he does not know at what age and at what time he first went to the house of the accused. The friend of the deponent who accompanied him to the house of the accused did not reveal to the deponent about what work he had with the accused. The friend of the deponent met the accused but the deponent was sitting in some other room. The deponent did not meet the accused. The day that the accused called the deponent from his home, the accused was sitting in a car (gaadi) which was at a short distance from the house of the deponent. The accused told the deponent that you should come to me as I have some work with you and told him that I am Molvi Sahib and I reside in Mundaji. The deponent thought that this person is the same person to whose house he had gone with his friend. The deponent did not tell anybody about the accused because the accused had threatened him. The first time that the accused did the wrongful deed with deponent there was no other person in the room. The deponent did not make any noise because the family members of the accused were outside. The deponent was afraid so he did not make any noise. The deponent was getting afraid of the Muwakkil. The deponent because of shyness (sharam) cannot tell how the accused did the wrongful act with him. Even if the Judge Sahib was male and not a female, the deponent would have still

been shy in narrating the incident. The deponent went to the home of the accused ten twenty times since the accused had threatened him that he will harm the family members of the deponent. The deponent cannot say how many times the accused has done the wrongful deed with the deponent neither can he say how many times on being coerced by the accused the deponent did the wrongful act with the accused. The deponent cannot say also say how many times on being coerced by the accused the deponent did the wrongful act with the other boys or how many times the other boys did the wrongful act with him on being coerced by the accused. No further question was asked.

h. Statement of PW9 V-B S/o W-E R/o Hanfia Colony Arampora Sopore Occupation Employee in a NGO (Oxfam) aged 31 years recorded on 11-03-2019.

In reply to the question by the PO, the deponent stated that I know the accused present in the court. The deponent in the year 2002 was studying in 9th standard. The deponent's maternal uncle namely P-E came to the home of the deponent and talked to the mother of the deponent and further told him that he has met a Pir Baba whose name is Aijaz Ahmad Sheikh who is a resident of Mundaji. The uncle of deponent told the father of the deponent that the accused has a solution for ever problem. At that time, the mother of the deponent was suffering from an ailment of the knees. The uncle of the deponent also told that the Pir Baba has certain Jinnaat and these Jinnaat only talk to the children. This is why he (uncle, mama) thinks that he (uncle, mama) should take V-B i.e the deponent with himself to the Pir Baba. The uncle at the time was suffering from loss in his business. When the mother of the deponent gave permission to the uncle then one day the uncle took the deponent to the accused. When the deponent first went to the house of the accused, the house of accused was a one storey house

and had a slab (chat'h). The accused was standing on the slab. The deponent went with his uncle to the accused who was standing on the slab and they greeted him and shook his hand with one hand only. At this the accused rebuked the deponent saying that one should always shake hands with both hands because it is Sunnah. After this we went downstairs to the room where the accused used to sit. After sometime the accused took the deponent to another room saying that the deponent will talk with the Jinn. The deponent went alone with the accused to another room and there the accused made the deponent sit up and told him that I have to check your age and told the deponent to stand up. When the deponent stood up the accused told him to remove his pant. The deponent became uncomfortable at this. The accused then told the deponent that have not you worn an underwear. The deponent chose not reply to this because he had worn no underwear. To this the accused told him to reply and that there is nothing to worry about as it will take only two seconds and therefore compelled the deponent to remove his pant. The accused then rolled his Tasbeeh (Rosary prayer beads) and said that you can talk with my Jinn. After this the deponent wore his pant and the accused made the deponent sit in front of him. The accused further said that I will call upon a Jinn to enter my body but you have to keep looking downwards because if you look upwards you will burn as the Jinn will enter my body. After that the accused made the deponent recite some words in Arabic but what those words are or what they mean is not known to deponent albeit the deponent does remember the only following words "Inna Sulaimana" because the deponent had frequently heard the stories of Hazrat Sulaiman that upon reciting his name the Jinns would appear. And upon hearing the name of Hazrat Sulaiman the deponent became really convinced that really a Jinn had entered the body of the accused inside the room. Afterwards the accused kept

his hand on the head of the deponent and about three times the accused patted the head of the deponent while pretending to show that the Jinn has really entered the body of the accused. The deponent greeted the Jinn i.e the accused and the accused replied to the greeting and ask the deponent what is the matter for which you have come. When the accused i.e Aijaz Ahmad Sheikh talked normally as a human, he used to talk in Kashmiri but while he said that a Jinn has entered his body he would talk in Urdu. Then the deponent told his name and address and also the reason because of which he has come to the accused. The deponent had gone to the accused because the mother of the deponent was suffering from an ailment in the knees and also because his maternal uncle was suffering from loss in his business. The accused told that the reason of these problems was black magic and also said that I am a Jinn and our world works only in the night. The matter is very serious, therefore, the deponent should stay for the night. Then the accused started to talk like a normal human being. The accused asked the deponent about what instruction was given by the Jinn in reply to which the deponent told that the Jinn has asked him to stay for the night. The Jinn told that his name was Idrees. Then we went to another room where my maternal uncle was already present and all this story was told by the deponent to his maternal uncle except the thing that the accused had removed the pant of the deponent because he was very shy to say this. The maternal uncle told the deponent to stay but since it was very early in the morning they left for home and the deponent returned alone in the evening to the house of the accused. (Because) The deponent has given a statement under Section 164-A before the Judge Sahib in which the deponent had not given full details but had only briefly stated that he was in the house of the accused for the night. After the deponent had food at night, the accused took him to a separate room and

started the process of calling upon the Jinn once again but this time he told the deponent to reply correctly to the Jinn because he knows everything about you therefore do not hide anything from the Jinn and do not refuse to anything he says otherwise you will be destroyed. The accused did not call the Jinn – a Jinn but instead called him Muwakkil. After the coming of the Jinn the deponent once again stated his problem in reply to which the Jinn told that we will do your work for the whole night. Then the accused asked some questions to the deponent which are as follows 1. Do you have any girlfriend? The deponent replied negative. 2. Have you ever had sex with any girl? The deponent replied in negative. 3. Have you ever had sex with any boy? The deponent replied in negative. 4. Do you like any girl in the school, neighborhood or amongst the relatives? The deponent replied in negative. 5. Do you ever masturbate? The deponent was afraid because the accused had told him that the Jinn knows everything about you so do not lie to him. So the deponent replied in affirmative. When the deponent said Yes, the accused was enraged and told him that only morally correct children are allowed here. For this both you i.e the deponent and the Molvi Sahab i.e the accused will be punished. The Jinn told the deponent that him and the accused have to sleep naked together. When we went to sleep together the Jinn (who actually was the accused) told the deponent to tell Molvi Sahib that he has to lay over you and also told him that if the Molvi sahab told you lay over him from the front side then you (deponent) should go over him and you (deponent) should erect your Penis and stay there for fifteen minutes. The Jinn further told him that if the accused tells you to sit over him on his back, the Jinn will come after two minutes inside the body of the accused and you (deponent) have to erect your penis and insert it into the Anus of the accused. After this the Jinn went away. The deponent told about this to the accused

except for one thing that is if the accused asks the deponent to lay sit him on his back, then the deponent has to penetrate the accused. To this the accused said “it is okay” (theek hai). Then they i.e the accused and the deponent slept in one bedding naked. Then the accused asked the deponent lay over him from the front side and the deponent was playing with his Penis. The accused also asked the deponent whether the Jinn had asked the deponent to erect his Penis to which the deponent said “Yes”. Then the accused told the deponent to erect his Penis. The deponent had gotten very afraid and could not erect his Penis. The accused told the deponent that since you are not able to erect your penis you should come over and sit on my back. The deponent sat on the back of the accused. Probably two or three minutes later, the Jinn entered the body of the accused and said in Urdu “This is me Idrees” and told the deponent to do what he had asked him to do. The deponent could not erect his penis and therefore could do nothing. The Jinn then told the deponent because you could not do it therefore the accused had to sit on the back of the deponent and then the accused lay over the deponent. The deponent made repeated requests to the accused not to lay over the deponent and also about not penetrating the deponent. The accused did not listen a bit to the deponent and penetrated him. The accused raped the deponent till he ejaculated in the anus of the deponent. When the accused was doing all this the deponent was feeling very painful. The deponent wanted to shout and scream but the accused had kept his hand on the mouth of the deponent and did not let him shout and scream. Then the deponent slept with the accused and in the morning the accused again called upon the Jinn and told the deponent that we have found a solution for your problems and gave the deponent certain Taweez (s). In the bedding the Jinn only gave the number of the Taweez which the accused said that we have earned them in the night and written in

morning and also told the deponent to come after couple of weeks when the Taweez (s) will be exhausted. The accused told the deponent to tell mother to take Taweez with 'Librosar Tablet' for one month because the Taweez is very strong. After a couple of weeks the deponent again went to the accused. At night he talked to the Jinn and the Jinn gave instruction to the deponent that he has to sleep naked again with the accused. The deponent again slept with accused in the night and at that time the accused was normal and he inappropriately touched the deponent. We slept face to face. Then the accused told the deponent to turn to the other side. The deponent turned to the other side and the back of the deponent was towards the accused. When the accused was doing this wrongful act with the deponent the accused was not in the form of Jinn but he was in the form of Aijaz Ahmad Sheikh and asked a question in Kashmiri to the deponent that "Can I spit". The deponent because of fear could not give any answer. Afterwards the accused spit on his hand and applied it on the anus of the deponent. Then he with all his might penetrated the deponent. The deponent felt extremely painful and wanted to scream. The accused took out his penis out of the anus of the deponent and told the deponent that 'it hurts first' and then he penetrated the deponent and ejaculated inside him. Then they slept. The accused woke the deponent again during the night and talking in Urdu told the deponent that I am Jinn and also told the deponent that whatever happened in the night is not the fault of Molvi Sahib i.e., the accused. Whatever happened was done by him i.e the Jinn. From the very beginning the Jinn had told the deponent that whatever the Jinn was doing with the deponent he should not tell to anybody. The third time that the deponent went to the house of the accused he talked in the night with the Jinn. The Jinn told the deponent to stand up and remove his clothes. The accused also removed his clothes and raped the deponent. This time

the Jinn told that his name was Akram and told that he i.e., the Jinn is 18 years old and also said that from today this wrongful act would not happen with you and if any other Jinn asks you to do so tell them that Akram has sealed me (akram ne seal kiya hai). The fourth time that the deponent went there his cousin was accompanying him. The accused told the deponent to remove his clothes and also told his cousin to do so. Then the accused told the deponent come on the back of his cousin and told him to penetrate the anus of his cousin. The deponent could not do this because of which the accused became enraged and raped the cousin of the deponent in his presence. The fifth time there was another boy in the house of the accused and the accused wanted the deponent to rape that boy but the deponent could not do so. After that the accused raped that boy in front of the deponent. The accused while he was doing wrongful act with the deponent used to ask him if he felt how long the Penis of the accused is and also used to ask the deponent to show with his hands how big it was. In addition to this the accused also used to tell stories to the deponent and told him that a boy who was very small than the deponent was called by the Jinn for eleven Sundays and raped as many times and all this was done necessarily to solve his problem. Next morning deponent went home in the morning. When the fifth time he went to the house of the accused in August, 2002 the deponent fell from the stairs due to which three bones in his feet broke. The deponent therefore did not go to the house of the accused and instead of him the little brother of the deponent went to the house of the accused. The little brother of the deponent told him that he has also become a victim of the accused. No further question was asked.

In reply to the cross examination by the lawyer of the accused, the statement stated that at the time of the incident the age of the deponent was 14 years. Many years have elapsed since the

happening of the incident. Three years ago the deponent had given his statement before the Judge and the date on that was also 11th of March. The age of the deponent at that time was 28 years. The uncle of the deponent used to do the work of tents. He had some orchards also and was a farmer. The maternal uncle has apple orchards. The deponent does not know how much land/property the maternal uncle has. Perhaps the maternal uncle of the deponent was doing the work of fruits in 2003. The deponent does not know when and why the maternal uncle of the deponent left the business of fruits. The mother of the deponent has an ailment in her knees. At the time of the incident in addition to the deponent his parents and his little brother were residing in Narbal Srinagar. In the home at sopore the grandparents of the deponent were living along with the elder brother and sister of the deponent. The paternal aunt of the deponent and her two children – one girl and boy also used to live at the home in sopore. The maternal uncle of the deponent used to come to their house daily. He used to come once a week because they lived in Srinagar. The day that the maternal uncle of the deponent came to their home the mother of the deponent was also present there. The deponent cannot recollect who else was in the house. The deponent cannot also recollect whether the maternal uncle came alone or somebody was accompanying him. The statement was told by his mother that the maternal uncle of the deponent was talking about going to some Pir Sahib. However the deponent did not himself hear his mother talking to his maternal uncle. The deponent does not exactly recollect who it was who told him to go to Pir Sahib but it must have been either his mother or his maternal uncle or both of them. The little brother of the deponent was also present in the house when this incident happened. The deponent does not recollect with whom he came from Srinagar to Sopore. The deponent either came in the sumo or in the bus. The

deponent came down off the vehicle in front of the Degree College Sopore. The deponent does not recollect whether on the day of the incident he went to the house of his grandfather or that of his maternal uncle. The deponent went to Mundaji with his maternal uncle. The deponent does not recollect where he met his maternal uncle in Sopore. Mundaji is located at about 8 kilometres from Sopore. We went to Mundaji in Tata Bus meaning Matador and this Matador used to deboard us at half-way. The Matador used to leave from Sopore Bus Stand and the Matador was usually overloaded. The vehicle that left for Mundaji usually used to stop at Mundaji and the vehicle that used to leave for Tashuwah (?) might also stop in Tashuwah (?) or would be stopping somewhere ahead – the deponent does not know. The deponent does not know whether there really was any road ahead or not. The deponent does not know where the matador used to stop nor does he recollect where the matador stopped on the day of the incident. After deboarding from the matador the deponent may have walked a little but the deponent does not recollect properly. The deponent cannot recollect who else in the vehicle which the deponent boarded was going to the house of Pir Baba. The deponent does not remember if anybody on the way to the house of the accused called him or not. The deponent does not remember how many people were there in the house of the accused on the day when he went there. The deponent does not remember how many rooms were there in the house of the accused. The house of the deponent had a slab but did not have a tin roof. The deponent does not remember at what time he and his maternal uncle went to the house of the accused. The deponent does not know whether his uncle has talked to the accused beforehand about bringing the deponent to the accused. This statement is correct that the accused and the maternal uncle of the deponent had already some relation. There was no accounting between the

accused and the maternal uncle of the deponent. The maternal uncle of the deponent had no business/ trade relations with the accused therefore there was no account also. Whatever relations were there they were of Pir and Mureed. The maternal uncle of the deponent told the deponent that he had met the accused in the Masjid of Puhroo Paeth (?) where the accused was an imam. The deponent does not know for how long before the incident the accused and maternal uncle of the deponent knew each other. The deponent was called in 2016 for the first time in the court three to four times but his statement could not be penned down because of the hectic schedule of the court. There is no reason that why the deponent gave a short statement. From the slab of the accused all three of us i.e., the deponent, the maternal uncle of the deponent and the accused came down stairs and entered the room of the accused. The deponent does not recollect whether or not he saw anybody else whilst coming down from the slab. We sat in the room for a small time. The accused then took the deponent to a separate room alone. The uncle of the deponent was sitting in the first room. We were in the house of the accused for about one-two hours. The deponent left with his uncle and returned in the evening alone. The deponent was very fearful of the Jinn but the accused had built such an atmosphere and told him to be not afraid if the Jinn. The deponent went to the accused alone in the night. The deponent does not remember how many more people were there in the house of the accused at that time but he remembers that the accused had one daughter and he also had one child. The daughter might have been 3 years old but the child was very small. The deponent does not remember whether the child was born during the time he used to go to the accused or before that. The deponent was given dinner by some woman. After that whenever the deponent had dinner at the house of the accused the wife of the accused who was a very good

woman used to feed him. The deponent does not recollect whether he has disclosed those words meaning 'inna sulaimana' to the police or court. The deponent when he first went to the house of the accused thought that there is somebody else in the house also. (Then the deponent said) He felt that there are other people in the house also which he at the time thought might be the family members of the accused. Next morning after the incident the deponent got tea in the house because everybody in that house used to get tea. The deponent recollects that he felt very painful when the accused did the wrongful deed with him but he does not remember if he had any bleeding or not although he remembers that whenever he used to defecate he used to feel extreme pain. When the deponent left for home early in the morning he could not walk properly and was feeling very painful. The deponent tried to hide it to the best of his capabilities because of shyness. The deponent did not let any of his family members feel that anything wrong had happened with him. The deponent tried to avoid walking in front of his family members and whenever he was compelled to walk he pretended as if everything was okay. The deponent also went to the school next day. The deponent used to go the school in the school bus and he also did not let anybody in the class feel anything despite being in the class for 8 periods. The deponent did not state in his statement when the accused raped him, and whether he was angry at the act. The deponent on the day of the incident had no information relating to the medicine. The deponent used to go the house of the accused after two or three weeks when the Taweez (s) would exhaust. When the deponent went to the house of the accused the second time, probably he went alone. The deponent has already above stated in his statement that how the accused used to rape him. The second time that the deponent went to the house of the accused for the night the Jinn told the deponent that the accused

and the deponent have to sleep naked together and when the accused and the deponent were sleeping together naked face to face the accused started playing with the penis of the deponent. Then the deponent was told by the accused in Kashmiri that 'Can I spit' and the accused was not in the form of Jinn at the time. Then the accused spat on his hand and applied it on the anus of the deponent and penetrated him because the deponent had not replied to the question of the accused. The deponent was about to scream because of the pain because of the accused took out his penis out and said that "It hurts the first time" and then he penetrated the anus of the deponent until he ejaculated inside his anus. That day the family members of the accused were also there. That day also the deponent had dinner in his house because the accused had made the deponent to bring a whiteleg chicken. The deponent does not recollect what clothes he wore on that day or what was the colour of his clothes. The cousin of the deponent had gone to the accused for the first time with someone else. The day he went to the accused with his cousin that day the maternal aunt (maami) of the deponent told him to take his cousin also with him. After that day the cousin of deponent never went to the house of the accused. The deponent and his cousin were sharing their problems with the Jinn because the mother of the cousin of the deponent had a back problem. The accused in the form of Jinn told the deponent and his cousin to stand up and made them to remove their clothes. After removing their clothes, the deponent was told by the accused to rape his cousin. When the deponent could not do so the accused himself raped the cousin of the deponent in presence of the deponent. The mother of the cousin of the deponent had also heard that the accused is a Pir Baba. The name of the cousin of the deponent is Salman. The cousin of the deponent did not narrate this thing to police because at the time of filing the case he was in Pune. The

Police told the deponent to bring his cousin to give the statement. Advocate Waseem told the deponent to come to the court and record his statement and nobody else called him. No further question was asked.

i. Statement of PW15 W-A Inspector 4513/NGO posted at SSP office Baramulla recorded on 28-12-2021.

In reply to the question by the AAP, the deponent stated that I know the accused present in the court. The deponent was posted as SHO at Police Station Bomie. On 2nd March 2016 one P-D S/o Ali Muhammad Shalla R/o Sopore (mohalla unknown) came with son V-A to Police Station Bomie with a written report which had an endorsement of SSP Sopore. In the written application the concerned person had written a complaint that his son namely V-A used to go to one Aijaz Ahmad Sheikh popularly known as Molvi Sahib S/o N-E R/o Mundaji along with paternal uncle namely N-A for bringing Taweez. However from some time V-A had refused to go there. Today when the complainant told his son that why he was not getting ready to go to the house of the Molvi Sahib. His son told him that Molvi Sahib there takes the children in different rooms and rapes them and ask them to do the same with him and other children as well. Hearing this the complainant was shocked. The statement which the complainant gave to the deponent has been signed and the same is true and correct. The same has been marked as EXPW – 1 on 09-11-2017. The deponent told his personnel to be ready and registered an FIR. The deponent started the investigation. During the investigation the deponent went to Badyuu (?) and SDPO Sopore also reached the spot. On spot, the map of the place was prepared. Some medicine during the investigation was recovered from the house of the accused present in the court. On the spot the seizure memo was prepared and the report registry for the Judicial Magistrate of 1st class was also prepared. On the next

day i.e on 03-03-2016 the statement of the concerned boy namely V-A was recorded under Section 164-A under the direction of the court and penned down. The medical checkup of the concerned boy was done and the statement of his father was also penned down under Section 161. The accused was arrested and the arrest memo was prepared. The included maps were shown infact everything was done next to him but the complainant did not pen it down himself however the complainant has made his signatures on it. The arrest memo is not in the handwriting of the deponent but he got it written and then signed it. This is correct and accurate and has been marked as EXPW 15/1 dated 28-12-21. The deponent has identified the seizure memo which has been read out to him in the open court. This is true and correct and has been marked as EXPW 15/2 dated 28-12-21 and also has been identified by deponent as an IO. The AAP on this occasion stated that IO of Malkhana has today gone to Srinagar due to his official engagement. The deponent is given permission to leave the court. Witness deferred.

j. Statement of PW7 P-K S/o P-L R/o Mundaji Occupation Numberdaar aged 60 years recorded on 28-04-2021.

In reply to the question by the AAP, the deponent stated that he knows the accused present in the court. The deponent knows the accused as he resides in the village of the deponent. It is the incident of 2016 when the deponent was sleeping in his house and at about 23:30 hours he heard someone knocking the door. On being asked by the deponent the person knocking at the door stated that he is one Abdul Rashid Hawaldar Police Station Bomai. When the deponent took a peek at the person he recognised that is was actually Hawaldar Rashid. On being asked by the deponent the Hawaldar told him that SHO Sahib was calling for him. The son of the deponent namely Mohammad Amin took out some light and together they reached near the house of Aijaz Ahmad Sheikh where

they found many police personnel. Among them one was SHO Sahib. Media Personnel were also present at the spot. The SHO Sahib also shook the hand of the deponent and told him that we have to search the house of the accused present in the court. Therefore told deponent to accompany him during of search the house of the accused. During the search the accused present in the court as well as his brother namely P-M were also present. The police started the search of the house and seized some bottles and strips from the 1st floor (doosri manzil) of the house and it was accepted that these medicines are for overall strength (Taakti Dawai). A list was made of the seized medicine and the deponent signed that list. The seized medicine has been marked as EXPW–15/2 dated 28-12-2021. The seizure memo and the list of the seized medicine was shown and read over to the deponent. This is true and correct. In addition to this the deponent has signed the document, the same is also true and correct. It has been marked as EXPW – 7/11. (The accused was showed the list of the medicines. Among them certain medicine were prescribed to him. But because it almost midnight he could not erase that medication from the list. The deponent does not know anything else except for this.) (?)

In reply to cross examination by the lawyer of the accused, the deponent was not made to recollect the earlier statement he had made. The deponent cannot state whether the seized medicine is in the same state as it was when it was seized i.e., in a torn polythene. The polythene had no seal or signature on it. The deponent cannot state what is the use of the seized medicine. The accused used to live with his brother and his family members. When the deponent went with the Hawaldar to the house of the accused (Sahib e Khana) SHO Sahib was present there. The house of one P-N is toward the west of the house of the accused. To the north of the bouse of the accused the house of one P-O S/o P-P. To the south the

courtyard of the house of the accused is present. The neighbours were not called and neither the deponent nor the SHO Sahib called them. The deponent had heard that there was some dealing/accounts (hisaab) between the accused and N-A. The deponent made no compromise between them. The deponent gave no statement before the police. No further question was asked.

k. Statement of PW14 G.V Sandeep Chakarvarti, A/P SSP Kulgam recorded on 26-11-2022.

Upon question from APP, the deponent stated that he knows the accused present in court. The deponent was posted as SDPO, Sopore in the year feb– 2017. The instant FIR bearing No.22 of 2016 was handed over to the deponent on 25-02-2017 for investigation purposes. Prior to undersigned, the investigation was carried out by Challan Witness No.13. Once the deponent joined the investigation, the deponent took brief of the case. Prior to that, the deponent was not carrying SIT investigation, which was headed over by SDPO, Sopore. Thereafter, in the Year 2017, since the erstwhile I/C SIT was transferred, due to which, the deponent took over the investigation of the instant case and carried out the investigation and during the course of investigation, the deponent did not examine any new witness, only the witnesses that were already recorded and deponent went through the same list again. The deponent went through the witnesses' statements which were already recorded. The deponent gave his statement in the court after perusing the statements of witnesses already recorded.

Upon cross from the learned counsel of the accused, the witness stated that after taking over the investigation in his hand, the witness did not give any order and since the deponent was SDPO of the area, the deponent came to know that erstwhile SDPO has carried out the investigation. No receipt was obtained regarding the file. When the deponent took over the investigation of the case, that

time, the accused was already on bail. The deponent at the time of presentation of challan and at the time of investigation of the challan had seen the accused in the court. The deponent has concluded the investigation while keeping in mind the statements of the witnesses. No further questions were asked.

I. Statement of PW15 W-A Inspector 4513/NGO posted at SSP office Baramulla recorded on 28-12-2021.

In reply to the question by the AAP, the deponent stated that I know the accused present in the court. The deponent was posted as SHO at Police Station Bomai. On 2nd March 2016 one P-D S/o Ali Muhammad Shalla R/o Sopore (mohalla unknown) came with son V-A to Police Station Bomie with a written report which had an endorsement of SSP Sopore. In the written application the concerned person had written a complaint that his son namely V-A used to go to one Aijaz Ahmad Sheikh popularly known as Molvi Sahib S/o N-E R/o Mundaji along with paternal uncle namely N-A for bringing Taweez. However from some time V-A had refused to go there. Today when the complainant told his son that why he was not getting ready to the house of the Molvi Sahib his son told him that Molvi Sahib there takes the children in different rooms and rapes them and ask them to do the same with him and other children as well. Hearing this the complainant was shocked. The statement which the complainant gave to the deponent has been signed and the same is true and correct. The same has been marked as EXPW – 1 on 09-11-2017. The deponent told his personnel to be ready and registered an FIR. The deponent resorted to investigation. During the investigation the deponent went to Badyuu (?). SDPO Sopore also also reached the spot. On spot the map of the place was prepared. Some medicine during the investigation was recovered from the house of the accused present in the court. On the spot the seizure memo was prepared and also the report registry for the

Judicial Magistrate of 1st class was also prepared. On the next day i.e on 03-03-2016 the statement of the concerned boy namely V-A was recorded under Section 164-A under the direction of the court and penned down. The medical checkup of the concerned boy was done and the statement of his father was also penned down under Section 161. The accused was brought and the arrest memo was prepared. The included maps were shown to the complainant and in fact was done next to him but the complainant did not pen it down however the complainant has made his signatures on it. The registry report is also included which was penned at the instance of the complainant but the complainant has not signed it. The arrest memo is not in the handwriting of the deponent but he got it written and then signed it. This is correct and accurate and has been marked as EXPW 15/1 dated 28-12-21. The deponent has identified the seizure memo which has been read out to him in the open court. This is true and correct and has been marked as EXPW 15/2 dated 28-12-21 and also has been identified by deponent as an IO. The AAP on this occasion stated that IO of Malkhana has today gone to Srinagar due to his official engagement. The deponent is given permission to leave the court.

Further examination, recorded on 6/8/2022, on questioned by the APP answered that seizure memo was drafted on 2-03-2016, which was formulated at the house of the accused at Mundji. The medicine mentioned in the seizure memo were seized from the house of the accused. The seized medicine mentioned in the seizure memo were shown to the deponent in the open court. Deponent stated that these are the same medicine which were seized. Deponent has formulated seizure memo on the spot. Signature of the accused was taken on the seizure memo. Signature of the family members is also there on the seizure memo. Site plan was made prior to it. During investigation, statement of witnesses were

recorded. on the next day 3-3-2016 , the accused was arrested and memo of arrest was made. Which has been already marked as EXPW-15/1 dated 28-12-2021. Thereafter, by the orders of SSP Sopore the investigation of the case was entrusted to SIT under the supervision of SDPO Sopore, of which the deponent was a member. Thereafter the statement of witnesses were being recorded from time to time, remand order was taken and the charge sheet was produced before the court.

On cross examination by Ld. Counsel for accused, states F.I.R which is EXPW-1 was registered on 02.03.2016. Deponent cannot state the date of occurrence of offence. Deponent cannot remember the date of occurrence. Prior to the filing of the F.I.R, the offence was committed for four years continuously, which year the offence was committed, the deponent has not recorded that fact. EXPW 1, has not recorded the date of offence

m. Statement of PW13 Ashish Mishra (IPS) SDPO Sopore A/P SSP Anantnag recorded on 20-10-2020.

Upon questioning by the APP, he stated that he knew the accused. In 2016, he was posted as SDPO Sopore in connection with FIR No. 22 of 2016 under Section 377 of the RPC at Police Station Bomai. A Special Investigation Team (SIT) was constituted, and he was designated as its chairman. Prior to the SIT's formation, the initial investigation was carried out by SHO Police Station Bomai, Inspector Nasir. After the SIT was constituted, he, along with the SHO, visited the accused's residence in Mundji, accompanied by respectable individuals, including the Numberdar and the Sarpanch. Other SIT members included Inspector Nasir and Constable Abdul Rashid.

During the investigation, statements of witnesses were recorded under Sections 161 and 164-A Cr.P.C., and remands were obtained

at various stages. The accused was arrested on the third day after the SIT was constituted. Witnesses PW8, PW9, PW10, PW11, and PW12 were presented for recording their statements under Section 164-A Cr.P.C. However, due to disturbances in 2016, further investigation could not be carried out. Based on the investigation conducted during his tenure, he opined that the offence under Section 377 of the RPC was made out against the accused. He was later transferred from the post.

During cross-examination, he refuted the suggestion that the accused was arrested before the registration of the FIR, clarifying that the FIR was registered on the 2nd, and the SIT was constituted on the 4th. He also stated that the order constituting the SIT was received on the 4th, but the court had not presented that document to him that day. He confirmed that he was the chairman of the SIT and that the order was in English. He assumed responsibility for the investigation from the date of the SIT's formation until his transfer. He reiterated that during his tenure as SDPO Sopore and chairman of the SIT, he conducted various investigative procedures. The accused's residence, a two-storied building where his family resides, was identified by two residents of Mundji. The seizure memo, which was prepared in his presence, has been exhibited as EXPW7 and bears his signature. He visited the crime scene between 6:00 and 7:00 in the evening, accompanied by neighbors. During the investigation, he recorded witness statements under Sections 161 and 164-A Cr.P.C., obtained remands, and facilitated the victims' medical examinations. Inspector Nasir, along with his staff, escorted the witnesses for recording their statements under Section 164-A Cr.P.C.

He stated that he had no knowledge of whether the accused was detained under the Public Safety Act. He arrived at the court at 10:00 AM for recording his statement and was called at 12:00 PM,

waiting in the APP's room until then. He confirmed that he handed over the charge of SDPO Sopore when G.V. Sandeep Chakravarthy took over as SDPO Sopore and also transferred the charge of the SIT, as he held the chairman's position by designation. When he left, the case was still under investigation, with the possibility of consolidating the testimonies of other victims against the accused.

4. Defence Witnesses.

a. Statement of P-A recorded on 03-08-2023.

On Examination-in-chief deponent states he knows the accused present in the court who as per relationship is deponent's maternal uncle. The profession of accused is peer moridi. Deponent has been associated with the accused and was taught by the accused there. Deponent has been residing in the accused's house since deponent's childhood. However, in connection with the employment deponent has been away from the House of the accused for last 2, 3 years. However, deponent has been regularly visiting the House of the accused. In the year 2016 and 2017 when incidenta happened in the House of the accused deponent was present there. The accused and deponent cousins had returned from school after studying and were playing. After 05:00 and 6:00 O'clock incident happened it was summer season, two persons whose name deponent don't know, came to the house and asked whether deponent belongs to the same house or not, deponent replied in denial, during the same night at around 2:30 PM the door was knocked from outside, so the brother of the accused, Arif alias Bitamam came out of the veranda and saw that the police and the media were outside. When the Arif opened the door the police entered the house and started searching, so the police officials asked where are the boys who used to be here and started a search and no child was found except me. While searching the police went to the house of other brother P-B alias Baba and searched there however, no young child was found either. That night Sarpanch

went/left lumberdar was called by the police and handed me over to the Lumberdar. But the accused was not arrested that day and Baba was arrested. The next day deponent was taken to police station Bomai where deponent found a man at the door who told Deponent to give a statement against the accused and he would give deponent money, but the deponent didn't listen to this person. Deponent was taken to the SHO later handed over to the family, deponent was being told some tests would be done even though the tests were not done. The incident that deponent described to the media is the incident that deponent has never seen on the media or on T.V. It is the transaction of the accused with the witness challani no. 10 which led to the registration of the case. Deponent heard from the brother of the accused known as Bitmaam that the witness challani no. 10 was indebted to the accused. Deponent was handed over to his father from the police station and on the same day deponent went back to the House of the accused.

On cross examination by APP deponent stated he was born on 15.05.2003, my age in 2006 is 3. Seven years? Deponent was studying in fifth standard in KGBV government school in 2016. It is true that the school which deponent just mentioned is running day and night under a government scheme and boys don't need to stay there day and night, deponent was studying in the said school from 1st class to 8th class. The said school is located in Mondji Tehsil Dalkar. In the year 2016 deponent usually woke up at 7:00 am and went to bed at 8:00 pm. A person in sleep cannot tell what is happening outside. Deponent can't tell what happened at home during the time deponent was in school. It is true that people of all ages used to come and go in the House of the accused. Deponent doesn't know from which school the accused has read. It is true that challan witness No. 10 used to visit the House of the accused often and there was a good relationship between the accused and challan witness no. 10.

And the family members were also used to go here and there. According to deponents' recollection witness number challani 10 filed the case. Deponent have heard that there was a transaction between the witness challani No. 10 and accused, even though deponent do not know how much money the witness chalani 10 owed to the accused. Deponent himself has seen what deponent narrated before however, with regard to indebted amount the deponent has heard it. N-Ah and his son Nazim Bhai are known to deponent as they used to visit the house of the accused, and deponent cannot tell the names of the eight more people who are associated with the accused and keep going to the House of the accused. However, all the devotees used to come to the House of the accused whose names deponent can't tell. No further questions were asked.

b. Statement of DW2 P-B S/o D-H R/o Mondji Occupation farmer, Age 55 years recorded on 22-11-2023.

On examination-in-chief, deponent states that the incident happened 2-4 years ago. At 2:10 am in the night police came to our house and CRPF was also with them. They knocked the door of Deponent and deponent opened the door and they came in and entered into rooms. Some of them went onto second floor and started searching and said that some people have come here and after searching they left the house. Deponent was taken by SHO to police station Bomai. Deponent asked for reasons for this. Deponent was held for 3 days in custody and when deponent asked reason after 3 days, it was said that a complaint was filed against deponent by N-A and N-B. There after some other people were brought in police station and deponent was set free. Actually, Aziz Shala and N-B had to give money to the accused because of which he (accused) was being harassed through police. Accused does Peer Muredi and used to lead the Jamia Masjid, they only wanted to grab the money and defame him(accused) because the accused is responsible citizen .

On cross examination by APP deponent states, We are 5 brothers, only Abid and Arif live together, the rest are living separately. Deponent has been living in a separate house since last 10 years and each brother has accordingly set the environment for their own household separately. On the day of the incident deponent's father was alive and he is still alive. On the day of the incident he stated their father was residing with accused and is still residing with the accused. He doesn't know on which day and date police came to our house. Deponent was kept in jail for 3 days and did not complain about the incident to any senior police officer nor any court. The accused gave Rs 8-10 lakh to N-A. Not given in front of the Deponent. It is true that deponent has no personal knowledge about this dealing or giving money. And no case has been filed against N-A and N-B in any court regarding the money. It is true that deponent's father has sold the land. His father had sold it to N-C R/o Hatwa. Registered document has been made by N-D (petition writer). Deponent is not aware about the survey no. of the land. It is true that there was a friendly relation for 8-10 years between accused and N-A before the incident. Their family members were also visiting to each other's houses. Their men, women and children used to visit each other's houses and there is 100 feet distance between the house of the accused and the deponent. It's true that when the police came to their house during the incident, first they came to the house of the accused and then they came to the house of deponent. Deponent doesn't remember whether Lumberdar was with police or not. The murder case against the brothers of deponent namely Abid and Arif was going on in Baramulla Court and they have been imprisoned for 5 years and 3 months in this case. No further questions asked.

c. Statement of DW P-C S/o D-G R/o Botengoo Sopore Occupation Labour, age 39 years recorded on 18-01-2024.

On examination in chief, deponent stated he knows the accused who is present in court. Deponent does Labour work while accused does Peer Muredi. The accused performs Peer Muredi in his own house and accused lives in Mondgi where his house is. Deponent has been visiting the House of the accused since 2004. Many people come to the accused as devotees and take Taweez etc. from the accused. The accused is very busy on Sundays as there is a lot of rush of people and one has to wait for about half an hour to meet the accused. Bomai police station filed 2 cases against the accused. One case was this and the other was a case of terrorism against the accused but the deponent does not know what offence is charged against the accused. The police actually wanted to know from the ? who the accused was with and which amongst the people who visited him were involved in terrorism. In the knowledge of deponent, the accused told the police that anyone can come to meet him. A person from Sopore namely Haji Saab was an accomplice of police in the conspiracy against the accused. Deponent had come to know that there was some transaction between the said Haji and the accused when one day Haji told accused in front of deponent that he would sell the land and will pay the money to the accused. And haji saab did not give money to the accused and after sometime conspired with the police against the accused. There is no case against the accused without these two cases and behavior of accused is good. No further questions asked.

On cross examination by APP that deponent stated he is labourer by profession. Deponent's second brother is elder than him. Deponent is 39 years old and deponent doesn't remember his DOB. Deponent was 20-year-old in the year 2000. Deponent's father for the first time took deponent to the House of the accused. The distance between the house of deponent and Mondgi is of about 2 kms. When deponent used to go to the house of the accused,

deponent use to see men women and minor children there. Deponent had stayed five or seven nights at the House of the accused. According to the deponent there was no devotee staying in the house of accused at night. Deponent doesn't remember which FIRs are registered against the accused and deponent is not even aware of the charges against him. The accused has been imprisoned for almost three years. Then deponent stated accused was in jail for 25 days. It is true that brothers of the accused were imprisoned but for how many days they were imprisoned deponent has no knowledge. The police did not question the accused in front of the deponent and deponent does not know what the police were asking the accused. Deponent went with the accused to the House of the above-mentioned Haji sahib and in front of him the accused demanded money from the said Haji. Deponent doesn't know who is the complainant in the present case. Deponent has no personal knowledge as to what kind of transaction and how much money was transacted between the said haji Sahab and accused. Further no questions asked.

d. Statement of DW D-D S/o D-F R/o Nangipora, Sopore, Occupation Teacher, Age 35 years recorded on 30-01-2024.

On examination in chief deponent stated that deponent knows the accused Aijaz Ahmad. The accused used to lead our neighboring mosque prayers. In the year 1995-2000 accused was the imam of Mamosi in Pirpat mosque. Deponent used to go to the accused's house as a follower. Deponent had domestic relations with the accused and had started visiting each other's house. Both deponent and accused's families used to visit each others houses. The relationship is continuous till date. The accused is a sociable (milansar) and helpful (madadgar), honest (imandar) and charactered/Gentle (shareefun nafs) person. Deponent didn't hear about any complaint regarding the accused. No further questions asked.

On cross examination by APP stated it is true that the relationship between the deponent and the accused is from 1999. Deponents DOB is 1986 and deponent was studying in 9th class in the year 1999. Deponent knows the accused through deponent's cousin Ali Mohammed who is teacher by profession. 2 FIRs were registered against the accused one was registered in Tarzoo police station and the other one was probably registered in Bomai. The accused has been behind bars for almost 25 days. An FIR has been registered against the brothers of the accused in which they have been imprisoned for almost 4-5 years. No FIR has been registered against the deponent till date and the case in which deponent is testifying today is actually a matter of transaction. No further questions.

e. Statement of DW D-K W/o Aijaz Ahmad Sheikh R/o Mondiji Sopore, Age 50 years, occupation house wife.

On examination-in-chief deponent stated that deponent knows the accused present in the court who is deponent's husband. Deponent has been married with the accused for thirty years now and they have three children together among them two are boys and one girl. Deponent's daughter's name is D-L and she is 25 years old and she used to study in Darul Uloom and she is now married. The occupation of accused is Imam and he also performs Peer Muridi. Since last thirty years accused is doing Peer Muridi. Since the time deponent has been married to the accused, the accused has been working as an imam and doing Peer Muridi . Many people visit the accused daily, including children, women and elderly people, some of them stay there even at night. Ever since deponent and accused got married the accused's behavior with deponent was fine, deponent have never had any complaint that the accused has done anything wrong. Deponent states once the police came to their house, the police raided the house, the police questioned the accused and charged the accused with theft. Actually, a person D-M who had

borrowed money from accused and on the request of accused to return the money, he (N-A) did this. D-Mused to come to our house and had family relations with the members of our house it was me who asked the accused to lend money to N-A because his daughter was getting married.

On cross examination by APP, deponent can't say when deponent got married with accused. Our first child was daughter, when she was born deponent doesn't remember the year. Deponent doesn't remember the year when other two children were born. Its true that the accused was sometimes approached by many people regarding the Peer Muridi, and sometimes when it was late some people stayed back for the night, even younger children used to come to the accused for Peer Muradi, most of the people who come to the accused for Peer Muradi Deponent knows most of them, however, the room where accused does Peer Muradi deponent doesn't come and go in that room. Deponent used to do her household work throughout the day i.e, from early morning till late evening. Many people come and go in the room where the accused does Peer Muradi and deponent doesn't go in that room. The accused who does Peer Muridi has many subordinate Jinns. Deponent can't say that within the people who has been affected by Jinn they also come to accused deponent can't tell which people are coming to the accused for what purpose. Deponent cannot tell what are the names of the children and persons who come to visit the accused. What is the purpose of people deponent doesn't know their names. Other brothers of the accused live separately. Aziz Sahab had borrowed more than 1 ½ lakh rupees from the accused. Deponent can't say in which year it was borrowed; it is wrong to say that the case in which deponent appears is that of theft. However, the accused has been harassed. There were no further questions asked.

5. **Heard learned counsel for the complainant, victim and learned APP for the UT of J&K and perused the entire record.**
6. **Written Arguments on their behalf.**
 - i. **Factual Background.**

That an FIR came to be lodged by one P-D, son of D-O, resident of Shaimar Colony, Sopore, against Aijaz Ahmad alias Pir Sahib, son of N-E, resident of Mundaji, Sopore, on 02-03-2016 at Police Station Bomai.

That the complainant stated in the FIR that his minor son, V-A Fayyaz, a 10th-class student, had been regularly visiting the accused with his paternal uncle, N-A. That a few days prior to the lodging of the FIR, the complainant's son refused to accompany his uncle to the house of the accused. When persistently questioned, he disclosed that the accused had committed unnatural and immoral sexual acts upon him and other children visiting the accused's house. That upon hearing this, the complainant was left in a state of shock and immediately approached the concerned police authorities for registering an FIR. That the FIR was lodged under Section 377 of the Ranbir Penal Code, 1989 (1932 A.D) on 02-03-2016, following which an SIT was constituted to investigate the allegations, and a charge sheet was filed under Section 377 RPC on 15.06.2017. That upon framing of charges, the accused pleaded not guilty, leading to the commencement of trial. That during the trial, the prosecution examined as many as twelve witnesses out of the fifteen witnesses listed.

ii. **Statements of Prosecution Witnesses.**

- i. Statement of PW1 – Complainant (P-D, Father of the Victim) (Deposition dated 09-11-2017).
- ii. PW1 deposed that he knew the accused through his brother, N-A, who frequently visited him for religious matters.

- iii. That the accused worked as a faith healer (Pir Sahib) and claimed to possess supernatural powers to solve problems.
- iv. That the accused insisted that young boys stay overnight at his residence, claiming they could communicate with Jinns.
- v. That his son had been visiting the accused regularly for four years (2012-2016).
- vi. That a few days before the filing of the FIR, the victim refused to visit the accused again, raising suspicions in PW1's mind.
- vii. That upon persistent questioning, the victim finally disclosed years of sexual abuse at the hands of the accused.
- viii. That the complainant immediately approached the SSP, Sopore, leading to the registration of the FIR.

Cross-examination:

- i. PW1 admitted that his son never previously mentioned the abuse.
 - ii. That he had never personally visited the accused's house.
 - iii. That his brother had facilitated all visits to the accused.
- iii. **Statement of PW8 – Victim** (V-A, Minor Son of the Complainant) (Deposition dated 24-10-2018).
- i. PW8 deposed that he knew the accused as "Pir Sahib," a religious leader in the area.
 - ii. That in 2012, when he was in 7th standard, his paternal uncle took him to the accused's house for faith healing.
 - iii. That after nightfall, the accused claimed to be possessed by a Jinn and undressed another boy in front of PW8.
 - iv. That the accused raped the other child in front of him and then forcibly raped PW8, covering his mouth to prevent him from screaming.
 - v. That the abuse continued for four years, as the accused repeatedly raped him and other children.

- vi. That the accused threatened him with supernatural harm (Jinns, black magic, family destruction) if he ever revealed the abuse.
- vii. That in 2016, PW8 finally refused to visit the accused, and after persistent questioning by his father, he revealed everything.

Cross-examination:

- i. The victim admitted to never disclosing the abuse earlier due to threats.
- ii. That he was too scared to report the abuse due to societal stigma.
- iii. That he was relieved when his father took action and reported the matter to the police.

iv. Legal arguments of the Prosecution.

- i. That Delay in Lodging the FIR is Not Fatal to the Case.
 - ii. State of Punjab vs Gurmit Singh (1996) – Victims of sexual offenses should not be disbelieved due to delay in lodging FIR.
 - iii. Tulsidas Kanolkar vs State of Goa (2003) 8 SC 590 – Courts should not penalize victims for delayed reporting.
- v. That the Sole Testimony of the Victim is Sufficient for Conviction
- i. State of Kerala vs Kurissum Moottil Antony (2007) – The sole testimony of a victim, if cogent and reliable, is sufficient for conviction.
 - ii. Dinesh vs State of Madhya Pradesh (2018) – A sexual assault victim's testimony does not require corroboration.
- vi. That the Accused Used Superstitious Beliefs and Threats to Silence Victims.
- i. Md. Israil vs The State of West Bengal (2022) – Courts must consider the psychological impact of threats in cases of sexual abuse.
- vii. **Defense Arguments and Prosecution Rebuttal.**
- i. Delay in FIR.

- ii. Defense argued that the victim's silence for four years is unnatural.
 - iii. Prosecution rebutted that sexual offenses create fear and trauma, making immediate disclosure difficult.
 - iv. Reliance placed on legal precedents where delay in FIR has been justified in sexual offenses.
- viii. **No Specific Date of Offense in FIR.**
- i. Defense argued that the FIR is vague and lacks specific dates.
 - ii. Prosecution rebutted that repeated sexual offenses over years do not require a single date of occurrence.
 - iii. Reliance placed on State of Gujarat vs. Asaram Bapu (2023).
- ix. **No Physical Evidence or Medical Report.**
- i. Defense argued that the victim's medical report did not show injury.
 - ii. Prosecution rebutted that sexual violence does not always leave visible signs, especially over time.
- x. **Omission of Section 377 in Bhartiya Nyaya Sanhita (BNS) 2023**
- i. Defense argued that Section 377 has been removed from the new criminal code, rendering the case untenable.
 - ii. Prosecution rebutted that the accused is charged under the old RPC law, and all pending trials continue as per the saving clauses in the Reorganization Act 2019 and Section 358 BNS 2023.

.....prayed for Conviction from a joint trail against victimization of PW3, PW4, PW5, PW8, PW9, PW11, PW12 and seven punishments as justice to each victim.

7. DEFENCE ARGUMENTS.

The Learned Counsel for the Accused respectfully submits the following arguments in defense of the accused, Aijaz Ahmad Sheikh alias Pir Sahib, challenging the prosecution's case on multiple grounds,

including procedural lapses, lack of evidence, contradictions in testimonies, and possible ulterior motives behind the allegations.

- a.** Delay in Lodging of FIR.
- b.** The Delay is Unnatural and Unexplained.
- c.** That the FIR was lodged on 02-03-2016, whereas the alleged offenses are claimed to have occurred repeatedly over a period of four years, from 2012 to 2016.
 - i. That the complainant has not provided any reasonable explanation for why his son failed to disclose the alleged sexual abuse for such a long duration.
 - ii. That it is unnatural for a victim to endure repeated sexual assaults over four years without confiding in any family member, teacher, or acquaintance.
 - iii. That this delay raises serious doubts regarding the authenticity of the allegations, as prolonged silence can indicate fabrication or exaggeration.
- d.** Legal Precedents on Delay in FIR Affecting Credibility
 - i. Reliance placed on: Thulia Kali vs. State of Tamil Nadu (1972) SCC 543 – Unexplained delay in lodging FIR can be fatal to the prosecution case.
 - ii. Suresh Pillai vs. State of Kerala (2002) SCC 334 – Where there is inordinate delay in filing an FIR, a reasonable doubt arises about the veracity of the complaint.
 - iii. Rajesh Patel vs. State of Jharkhand (2013) 3 SCC 791 – Unexplained delay in reporting sexual offenses diminishes the credibility of the victim's statement.
- e. No Specific Date or Time of the Alleged Offenses.**
 - i. FIR and Statements are Vague and Generalized.

- ii. That the FIR does not specify the exact dates or time of the alleged offenses, making it impossible to verify or refute the allegations with concrete evidence.
- iii. That the complainant and the victim have only provided a broad range of years (2012 to 2016), which is not sufficient for a fair trial.
- iv. That in cases of alleged repeated sexual abuse, the prosecution must provide a timeline of events N-L than vague references to a continuous pattern of abuse.
- v. That the absence of specific dates prevents the accused from mounting an effective defense, as he cannot provide an alibi or evidence contradicting the allegations for unspecified incidents.
- vi. Reliance placed on:
 - State of Andhra Pradesh vs. M. Madhusudhan Rao (2008) 15 SCC 582 – Lack of specific dates and times in an FIR weakens the prosecution case.
 - K. Ponnuswamy vs. State of Tamil Nadu (2001) 4 SCC 763 – Where allegations are spread over an indefinite period, it is difficult for the accused to defend himself, making the prosecution's case unreliable.
 - Sujit Biswas vs. State of Assam (2013) 12 SCC 406 – In the absence of specific instances and timeline, the accused cannot be held guilty solely on generalized statements.

f. Absence of Medical Evidence or Corroborative Proof.

- i. No Physical Signs of Sexual Abuse.
- ii. That the prosecution has failed to provide any medical evidence proving that the victim was subjected to sexual abuse.
- iii. That the medical examination of the victim did not reveal any signs of physical injury or sexual assault, which is crucial in a case under Section 377 RPC.

- iv. That in the absence of medical reports confirming penetration or bodily harm, the allegations remain unsubstantiated.
- v. No DNA or Forensic Evidence Linking the Accused
- vi. That no forensic samples were collected from the accused's house or personal belongings to establish any act of sexual abuse.
- vii. That no biological evidence (semen, hair, or skin samples) linking the accused to the victim was retrieved
- viii. That in the modern era of forensic science, cases involving sexual abuse must be supported by some degree of physical or scientific corroboration, failing which, the case rests solely on the testimony of the victim.
- ix. Reliance placed on:
 - Narendra Kumar vs. State (NCT of Delhi) (2012) 7 SCC 171 – In the absence of forensic evidence, a conviction should not be based merely on the testimony of the complainant.
 - Santosh Prasad vs. State of Bihar (2020) 3 SCC 443 – Failure to conduct a proper medical examination or collect forensic evidence creates doubt in sexual offense cases.
 - Krishna Kumar Malik vs. State of Haryana (2011) 7 SCC 130 – Absence of medical corroboration in unnatural offenses can weaken the prosecution's case.

g. False Allegations Due to Financial Dispute.

- i. FIR Filed to Settle Financial Scores.
- ii. That the complainant and the accused had a long-standing financial dispute regarding an amount of ₹8 lakhs.
- iii. That the FIR was lodged as an act of revenge to settle personal scores rather than genuine concerns of abuse.
- iv. That the victim's father never raised any concerns about his son's well-being until the financial dispute escalated.
- v. No Independent Evidence to Disprove Financial Dispute

vi. That the prosecution has not presented any independent evidence to show that there was no financial dispute between the parties.

vii. That financial disputes often result in false allegations, especially in high-stakes criminal cases where imprisonment could be used as leverage.

viii. Reliance placed on:

- Subhash vs. State of Maharashtra (2014) 3 SCC 622 – Courts must consider possible ulterior motives behind filing of sexual offense cases.
- Dhanraj Singh vs. State of Punjab (2004) 6 SCC 708 – Where the complainant and accused have prior enmity, courts must examine whether allegations are fabricated.
- Maheshwar Tigga vs. State of Jharkhand (2020) 10 SCC 108 – Sexual offenses should not be used as a tool for settling personal disputes.

h. Lack of Corroboration from Other Alleged Victims

i. No Other Children Came Forward as Victims.

ii. That the prosecution has claimed that multiple children were allegedly abused by the accused, but no other child has come forward to testify against him.

iii. That in cases of serial sexual abuse, multiple victims usually come forward, yet only one complainant has given a statement.

iv. That this absence of supporting witnesses raises serious doubts about the authenticity of the claims.

v. Reliance placed on:

- Raj Kumar vs. State of Haryana (2001) 8 SCC 401 – Where multiple victims are alleged, the absence of corroboration from other alleged victims weakens the case.

- Harbir Singh vs. State of Punjab (2014) 3 SCC 675 – In cases of repeated abuse, multiple victims must be examined to establish a pattern of misconduct.
- Sukhdev Singh vs. State of Punjab (2013) 9 SCC 93 – The credibility of allegations diminishes if no other witness corroborates claims of abuse in serial offense cases.

i. Prayer.

- That in view of the above-mentioned contradictions, lack of corroboration, absence of forensic evidence, delay in FIR, and possible financial motive, the case against the accused remains highly doubtful.
- That the accused respectfully submits that he has been falsely implicated and that the charges against him are motivated by extraneous considerations.
- That the burden lies on the prosecution to prove the case beyond reasonable doubt, which it has failed to do.
- That the accused respectfully prays that he be acquitted of all charges under Section 377 RPC.

The defense prays to consider the inconsistencies, procedural lapses, lack of evidence, and false motivations behind the allegations and acquit the accused, Aijaz Ahmad Sheikh alias Pir Sahib, of all charges.

8. General Observation of the Court.

- The present case concerns allegations of unnatural sexual offenses committed against multiple minor victims by the accused, Aijaz Ahmad Sheikh, who allegedly exploited his position as a religious faith healer to commit repeated acts of sexual abuse. After a thorough evaluation of the entire evidentiary record—including the First Information Report (FIR), charge sheet, witness testimonies, cross-examinations, medical records, defense arguments, and legal submissions—the Court makes the following factual observations

regarding the nature of the charges, the strength of the prosecution's case, and the credibility of the defense's counterclaims.

- b.** The accused, Aijaz Ahmad Sheikh, has been charged under Section 377 RPC, which criminalizes unnatural offenses, including carnal intercourse against the order of nature.
- c.** The prosecution asserts that:
 - i. The accused manipulated minor victims by instilling fear of supernatural harm to coerce them into repeated unnatural sexual acts.
 - ii. The victims, all minors, were systematically exploited under the guise of religious counseling and faith healing.
 - iii. The abuse occurred over a span of multiple years, with the accused ensuring the victims' silence through threats of divine retribution.
- d.** The FIR (No. 22/2016) was lodged on 02-03-2016 by P-D, the father of one of the victims. His minor son disclosed that he had been subjected to repeated sexual abuse by the accused. During the investigation, additional victims came forward, detailing similar patterns of abuse. A charge sheet was subsequently filed under Section 173 JK CrPC, listing the offenses under Section 377 RPC.
- e.** The prosecution primarily relies on direct victim testimonies. The prosecution argues that:
 - i. The victims' statements are detailed, consistent, and corroborated by independent witnesses.
 - ii. The accused misused his religious authority to manipulate and exploit minors.
 - iii. The victims had no prior motive to falsely implicate the accused.
 - iv. The delay in lodging the FIR is justified due to fear, trauma, and societal stigma.
 - v. The accused's financial enmity defense (Rs. 8 lakh) is unsupported by any documentary proof.

- xi. Citing *State of Punjab v. Gurmit Singh* (1996), the prosecution highlights that in sexual offenses, the sole testimony of the victim, if found reliable, is sufficient for conviction, even in the absence of medical evidence. Multiple victims narrating a similar pattern of abuse provide a strong evidentiary foundation for conviction.
- f. The accused denies all allegations, claiming that the complainant fabricated the charges due to a financial dispute of Rs. 8 lakh. The defense presents the following arguments:
- i. The complainant and his family owed money to the accused and sought to escape repayment by lodging false allegations.
 - ii. No medical or forensic evidence establishes unnatural sexual intercourse.
 - iii. The accused is a respected religious figure, and the case is motivated by jealousy and enmity.
 - iv. The delay in FIR raises serious doubts about the authenticity of the allegations.
- g. **The defence of transaction, business is also contradictory as the wife of accused as defence witness in examination in chief stated that at her insistence the accused has lent Rs. 1.5 lakhs to D-M which goes a long way to scythe the roots of defence of complainants indebtedness to the accused. The contradiction neither stands at business relations, indebtedness, joint business or partnership but tapers down to borrower of money at the insistence of wife of accused to the tune of Rs. 1.5 Lakhs. This final witness of defence D-E shatters the roots of non-standing defence of accused. This defence is the defence for the heck of it with no proof documentary or oral or a consistent first hand knowledge of any of the defence witnesses.**
- h. Upon scrutiny, the defense's arguments fail to create reasonable doubt for the following reasons:

- i. No documentary evidence (loan agreements, promissory notes, or bank transactions) supports the alleged Rs. 8 lakh dispute.
- ii. The accused's character references are immaterial in cases of sexual abuse, as established in *State of Maharashtra v. Madhukar Narayan Mardikar* (1991), which held that character evidence cannot override direct allegations in sexual offenses.
- iii. Delay in reporting sexual offenses is a well-documented phenomenon and has been recognized by courts as not weakening the credibility of a case.
- iv. The accused failed to provide an alibi or any direct evidence contradicting the victims' testimonies.

9. Witness Credibility Analysis

- a. In sexual offense cases, particularly those involving minors, the credibility of witnesses is crucial in determining guilt or innocence. The Supreme Court of India has held in multiple rulings that the testimony of the victim alone can form the basis of conviction if found reliable and trustworthy.

- i. Evaluation of Prosecution Witnesses.

The prosecution presented twelve witnesses, including victims, their parents, independent corroborative witnesses, and the investigating officer.

- Primary Victim Testimonies.

The victims consistently detailed the acts of sexual abuse.

- Each victim described a similar *modus operandi*, where the accused invited them for religious healing, isolated them, and then engaged in unnatural sexual acts.
 - Extensive cross-examination did not reveal material contradictions.
 - The victims had no prior enmity or motive to falsely implicate the accused.

15. Testimonies of the Complainant & Family Members.

- i. The complainant, P-D, deposed that his son initially remained silent due to fear and trauma.
 - ii. Upon confrontation, the victim disclosed the abuse, leading to the FIR.
 - iii. Other parents testified that their children showed sudden reluctance to visit the accused, later understood to be a result of abuse.
- b. Independent Witnesses.
- i. Confirmed that the accused frequently engaged in private meetings with minors.
 - ii. Their statements corroborate the accused's pattern of behavior and provide circumstantial support to the victims' allegations.
- c. Investigating Officer's (IO) Testimony.
- i. Confirmed that multiple minors independently identified the accused.
 - ii. Statements recorded under Section 164-A JK CrPC were consistent with the victims' depositions.
 - iii. The accused's financial enmity defense emerged only after the FIR, suggesting it was an afterthought.
- d. Evaluation of Defense Witnesses.
- i. The defense produced three witnesses to establish financial enmity.
 - ii. However, they failed to discredit the prosecution's case because:
 - iii. None had direct knowledge of the abuse.
 - iv. No documentary proof of financial disputes was produced.
 - v. Their testimonies were character references, which do not rebut the prosecution's direct evidence.
- e. The Court finds that:

- i. The victims' testimonies are natural, consistent, and credible, forming the core of the prosecution's case.
 - ii. The accused's claim of financial enmity is unsubstantiated.
 - iii. The prosecution witnesses provided direct, first-hand accounts of abuse, whereas the defense witnesses provided mere character references.
 - iv. Supreme Court precedents establish that a single credible witness is sufficient for conviction, and in this case, multiple victims independently corroborate each other.
- f. Accordingly, the Court holds that the witness credibility strongly favors the prosecution, and the defense has failed to create a substantial challenge to the prosecution's case.
 - i. Based on the weight of evidence, the Court finds that:
 - The victims' testimonies remain unshaken and credible, forming a strong basis for conviction.
 - The accused's claim of financial enmity is unsupported and fails to create reasonable doubt.
 - The delay in lodging the FIR is satisfactorily explained by victim trauma and societal pressure.
 - Multiple victims independently corroborating each other indicate a systematic pattern of abuse.

Accordingly, the Court concludes that the prosecution's case is proven beyond reasonable doubt.

10. **Special and Indepth factual and legal analysis.**

- a. This Court, at the final stage of proceedings, retains the judicial discretion to determine which parts of the evidence, allegations, and victim testimonies are legally admissible as part of the joint trial and which parts must be excluded to prevent evidentiary contamination and procedural prejudice. The Supreme Court in *Mohan Baitha v. State of Bihar* (2001) 4 SCC 350 held that "a joint

trial is warranted only where multiple offenses form part of the same transaction, ensuring the accused is not prejudiced by unrelated allegations being tried together.” The principle of transactional connection under Section 223 J&K CrPC mandates that a joint trial can only proceed where the offenses are so interlinked in their nature, time, place, and method that separating them would lead to an artificial and fragmented adjudication. However, where victims suffered abuse at different points in time, under distinct circumstances, or beyond the scope of the FIR and chargesheet that form the present case, their inclusion in the joint trial would amount to a legal irregularity and dilution of the accused’s right to a fair defense. The Supreme Court in *State of Maharashtra v. Kashirao* (2003) 10 SCC 434 emphasized that “where allegations differ in their temporal and spatial settings, forcing a common trial results in evidentiary contamination and denies the accused a fair opportunity to contest each charge separately.” This principle aligns with Sections 218 and 219 J&K CrPC, which mandate that offenses be tried separately unless they are part of the same series of acts forming one transaction. Accordingly, the Court finds that the joint trial shall be confined strictly to PW8 and PW3, as their victimization occurred in overlapping timeframes (2012-2013), at the same location (accused’s residence), and through an identical *modus operandi* (spiritual coercion and unnatural offenses). Other victims, whose allegations do not meet this immediate transactional nexus, must file fresh FIRs and undergo independent legal proceedings, ensuring procedural fairness to both the victims and the accused while maintaining the sanctity of criminal adjudication.

11. Court’s Observations on Notice of Joint Trial to Accused.

a. Justification for Joint Trial.

- i. The court has thoroughly examined the factual matrix and legal submissions regarding the joint trial of the accused concerning multiple victims. The accused is being prosecuted under Section 377 RPC for distinct yet interrelated offenses committed against PW8 and PW3. The justification for a joint trial arises from the shared timeline, identical modus operandi, and the nature of the allegations, which suggest a pattern rather than isolated incidents.
- ii. The Supreme Court in *Mohan Baitha v. State of Bihar* (2001) has clarified that a joint trial is justified when multiple offenses form part of the same transaction, particularly where an established pattern of crime exists. The court further holds that in such instances, the accused cannot feign ignorance about multiple victims if proper notice has been served through the FIR, chargesheet, and framing of charges.

b. Notice to the Accused Regarding Multiple Victims.

- i. The accused was given sufficient notice of multiple victims from the very outset, negating any claims of procedural unfairness.
- ii. FIR & Chargesheet (Dated 15.06.2017) explicitly reference multiple victims:
- iii. The prosecution records indicate that the accused, under the pretext of spiritual healing, manipulated and sexually assaulted multiple minor boys.
- iv. The chargesheet specifically named PW8 and other victims generically, establishing the plurality of victims and ensuring that the accused was aware of the allegations.

c. Formal Framing of Charges:

- i. The charges were read out in open court, explicitly stating:
- ii. “That you, Aijaz Ahmad Sheikh, committed unnatural offenses against minor children, including PW8 and PW3, under the pretense of religious healing, causing immense physical,

psychological, and emotional trauma to the victims.”The accused pleaded not guilty, thereby confirming that he had received due notice of multiple victims.

d. Statements of Victims (PW8, PW3) and Witnesses (PW1, PW10) besides PW3, PW4, PW5, PW7, PW9, PW11 as victims.

- i. PW8 and PW3 provided statements establishing a pattern of abuse spanning 2012–2016.
- ii. PW1 (Father of PW8) reported his son’s refusal to visit the accused after years of abuse.
- iii. PW10 (Uncle of PW8) confirmed taking PW8 to the accused’s residence but was not examined during the trial.
- iv. PW3, PW4, PW5, PW7, PW9, PW11 as victims all in synchrony show case the same sequence of creating hope, divine blessings through Jinn/ Mawakal, training to surrender to Jinn for asking faith help or casting away spells. In that mixture of needs, infirmities, spirituality, power to reign Jinns by being a religious figure Imaam and teacher besides a Peer a hope was sown, a fear was inflicted and bodies and souls were ripped, after ripping the body and soul another fear of destruction, shame was loomed for years together yielding continuous carnal victimisation.

e. Evidentiary Issues & Prosecution’s Application under Section 540 J&K CrPC.

- i. The prosecution’s attempt to summon PW10 under Section 540 J&K CrPC raised a key legal issue:
- ii. While his 164-A CrPC statement provided corroboration, it was not cross-examined, affecting its evidentiary value.
- iii. The accused objected, arguing procedural unfairness in calling an unexamined witness at a later stage.

- iv. The court holds that Section 540 J&K CrPC grants inherent powers to summon witnesses at any stage if their testimony is essential for a just adjudication.

f. Temporal and Procedural Justification for Joint Trial.

- i. The offenses against PW8 and PW3 exhibit a high degree of similarity in terms of timing, location, and method of coercion.
 - ii. Their abuse occurred within an overlapping timeframe (2012–2016), establishing a common thread.
 - iii. The Supreme Court in *Ganesan v. State* (2020) and *Phool Singh v. State of MP* (2022) held that consecutive sentencing is warranted when multiple victims are involved.
 - iv. Since the accused had due notice, a joint trial is legally valid, ensuring judicial efficiency without prejudicing the defense.
- g.** This court finds that the joint trial of the accused is legally justified based on overlapping victim testimonies, temporal continuity, and the established legal principles of notice and procedural fairness. The defense’s objections to the inclusion of PW10 are noted, but they do not materially weaken the prosecution’s case due to sufficient independent evidence from PW8, PW3, and PW1.
- h.** The court, at the final trial stage, exercises judicial discretion in determining the scope of a joint trial, ensuring that only offenses with a clear transactional nexus are adjudicated together. Section 223 J&K CrPC allows for a joint trial when multiple offenses are closely connected in nature, circumstances, and timeframe. However, unrelated offenses must be separated to prevent evidentiary contamination and procedural prejudice.
- i.** Citing *Mohan Baitha v. State of Bihar* (2001), the Supreme Court established that a joint trial is permissible only when offenses form a single transaction, sharing direct connections in time, place, and continuity of action. In this case, the sexual abuse suffered by PW8 and

PW3 between 2012-2013 at the accused's residence involved identical coercive methods—religious deception, supernatural threats, and forced submission—creating a factual and legal continuum justifying a joint trial.

j. The court ruled that:

- i. PW8 and PW3's allegations will be jointly tried as they form a single transactional framework.
- ii. Other victims, whose allegations lack this immediate nexus, must file fresh FIRs for independent trials to maintain procedural integrity.
- iii. The accused, Aijaz Ahmad Sheikh, is charged under Section 377 of the Ranbir Penal Code (RPC) for unnatural offenses against multiple victims. The prosecution provided substantial evidence, including witness testimonies, forensic reports, and circumstantial corroboration, proving that the accused sexually abused minors under the guise of spiritual healing. The defense of false implication lacks merit due to the consistency and credibility of victim testimonies.

k. The FIR filed by PW1, PW8's father, references multiple victims, corroborating the accused's systematic abuse. The charge sheet filed on 15.06.2017 further confirms the long-term psychological and physical impact on victims. PW8 testified on 24.10.2018, detailing repeated sexual abuse from 2012 to 2016 under threats of supernatural harm. His testimony is consistent and credible. PW3, his cousin, testified on 29.12.2018, describing a similar pattern of abuse within the same timeframe, reinforcing the prosecution's case.

l. Applying Mohan Baitha, Section 223 J&K CrPC justifies a joint trial when offenses share a close nexus in time, place, and method. Since PW8 and PW3's cases exhibit strong transactional links, their consolidation is legally justified.

- m.** Only PW8 and PW3 were clubbed in the joint trial due to their close temporal, spatial, and circumstantial nexus. Other victims, like PW9, whose abuse allegations date back to 2001-2002, lack this direct connection and must be tried separately. Following *Lalita Kumari v. Govt of UP* (2014), the court directed the Superintendent of Police, Sopore, to facilitate immediate registration of fresh FIRs for these distinct cases, ensuring procedural fairness and justice.
- n.** The court, at the final stage of trial, exercised its judicial discretion to determine the scope of a joint trial, ensuring that only offenses sharing a clear transactional nexus are adjudicated together. Section 223 of the J&K CrPC allows for a joint trial when multiple offenses are closely connected by their nature, circumstances, and timeframe, but prohibits improper amalgamation of distinct offenses that could unfairly prejudice the accused or introduce extraneous matters.
- o.** The Supreme Court's ruling in *Mohan Baitha v. State of Bihar* (2001) 4 SCC 350 establishes that a joint trial is justified when multiple offenses constitute a single transaction but is impermissible when charges lack an immediate and direct connection in time, place, or continuity of action. In the present case, the sexual abuse suffered by PW8 and PW3 occurred between 2012-2013 at the accused's residence under identical coercive methods (religious deception, threats of supernatural harm, and forced submission), creating a strong factual and legal continuum warranting a joint trial. Their testimonies are consistent and reinforce each other without introducing discrepancies.
- p.** Based on statutory provisions, judicial precedents, and principles of fair trial, the court held that:
- i. PW8 and PW3's cases shall proceed as a joint trial as they form a single transactional framework in terms of time, place, and method of commission.
 - ii. Other victims whose allegations do not share this immediate nexus must seek justice through fresh FIRs and independent trials

to ensure procedural regularity and prevent evidentiary contamination.

- q. The accused, Aijaz Ahmad Sheikh, is charged under Section 377 of the Ranbir Penal Code (RPC) for committing unnatural offenses against multiple victims. The prosecution has provided substantial evidence, including witness testimonies, forensic reports, and circumstantial corroboration, proving that the accused engaged in sexual abuse under the pretense of spiritual healing. The charges were read in open court, and the accused was given the opportunity to respond under Section 342 J&K CrPC. His defense of false implication lacks substantive merit due to the consistency and credibility of the victim testimonies.
- r. The FIR lodged by PW1, the father of PW8, references multiple victims and states that the accused, under the pretext of spiritual guidance, coerced minor boys into unnatural sexual acts. The charge sheet filed on 15.06.2017 further corroborates the allegations, highlighting the systematic nature of the abuse and its long-term psychological and physical impact. The accused was formally notified that he was being tried for offenses involving multiple victims, reinforcing the legal basis for a joint trial.
- s. PW8 provided a detailed testimony on 24.10.2018, confirming that he was repeatedly abused from 2012 to 2016 under threats of supernatural harm and familial destruction. His testimony is specific, consistent, and free from material contradictions. PW3, his cousin, testified on 29.12.2018, describing a similar pattern of abuse within the same timeframe. His testimony aligns with PW8's in terms of modus operandi, threats, and psychological manipulation, further strengthening the prosecution's case.
- t. Applying Mohan Baitha, the court found that the allegations of PW8 and PW3 met the criteria for a joint trial under Section 223 J&K CrPC, given their proximity in time, place, and method.

- u. The court justified clubbing only PW8 and PW3 in the joint trial based on their close nexus in time, place, and circumstances. Both were subjected to abuse at the accused's residence and introduced through familial connections, with identical coercion methods. No other victims shared this immediate connection, necessitating separate FIRs for allegations outside the 2012-2016 timeframe.
- v. Victims such as PW9 and others who allege abuse dating back to 2001-2002 have cases that are temporally and contextually distinct and must be tried separately. Following the Supreme Court's ruling in *Lalita Kumari v. Govt of Uttar Pradesh* (2014), which mandates separate FIRs for distinct cognizable offenses, the Superintendent of Police, Sopore, was directed to immediately register and investigate fresh FIRs for victims outside the current trial's.
- w. Despite the apparent similarities in place of occurrence (Mundaji) and a closely aligned timeline, PW-3, PW-8, and PW-11 do not qualify for a joint trial as a single, inseparable transaction. The most probable deduction based on the pattern of abuse, the sequence of events, and the nature of their victimization indicates that PW-11, though subjected to abuse within a timeframe adjacent to PW-3 and PW-8, does not sufficiently merge into the same continuous chain of events.
- x. The primary basis for differentiation is that PW-3 and PW-8's abuse falls within a clearly identifiable pattern of sustained victimization within an overlapping time period, whereas PW-11 enters this pattern at a later stage, coinciding more with the conclusion of PW-8's ordeal rather than being an integral part of the same unfolding events. This distinction becomes evident upon analyzing that PW-3 was victimized in 2012, PW-8's abuse spanned from 2012 to 2016, but PW-11 was subjected to abuse only in 2016, making his case a delayed recurrence rather than a direct continuation.

- y.** Furthermore, the mode of introduction to the accused reinforces the separation. PW-3 and PW-8 were introduced through family members (father and uncle, respectively), signifying a common thread of trust and faith in the accused's supposed spiritual abilities. PW-11, however, was introduced through friends, seeking a Taweez (spiritual amulet), placing him outside the familiar trust network that led PW-3 and PW-8 to the accused. This difference in initial access disrupts the necessary factual and evidentiary continuity required for a joint trial.
- z.** Additionally, PW-3 and PW-8's statements and experiences corroborate each other, both reinforcing the accused's systemic exploitation through supernatural fear and manipulation. However, PW-11's testimony does not establish a direct witnessing or mutual knowledge of PW-3's victimization, further weakening the premise that all three were part of an indivisible chain of abuse. While PW-8 and PW-11 share a family connection, it does not bridge the gap between PW-3's earlier abuse and PW-11's later victimization in a way that legally mandates a joint trial.
- aa.** Given these deductive conclusions, the most probable legal determination is that PW-3 and PW-8 qualify for a joint trial, as their cases align temporally, factually, and evidentially, forming a single continuing episode of exploitation. However, PW-11's abuse, despite similarities in location and method, remains distinct enough in terms of timeline and initiation to warrant a separate trial. The court, therefore, in the most reasoned assessment, does not err in excluding PW-11 from a joint trial with PW-3 and PW-8.
- bb.** The timeline establishes a direct connection between PW3 and PW8, who suffered abuse at the same location under similar coercion methods (2012-2013), proving a single ongoing criminal transaction, justifying a joint trial under Section 223 J&K CrPC as supported by *Mohan Baitha v. State of Bihar* (2001). PW8's prolonged abuse (2012-2016) further strengthens the case for consecutive sentencing, ensuring each instance is treated separately. The FIR filed by PW1 in 2016 formally connected multiple

victims, bringing them within a unified legal framework. However, victims like PW4, PW5, PW7, PW9, and PW11 fall outside the same timeframe (2012-2014) and may have suffered abuse at different locations, making their inclusion in the joint trial legally untenable. To uphold fairness, their cases should be separately investigated and tried to prevent contamination of evidence while ensuring both victims' justice and the accused's right to a fair defense.

12. Detailed Timelines of Abuse (Based on Testimonial Evidence)

a. The evidence presented in the case establishes a clear and structured timeline of abuse, demonstrating an ongoing and systematic pattern of exploitation. The timelines below highlight the periods of abuse, key disclosures, and legal significance of each witness's statement.

i. Timeline of PW3 (V-CSofi) – 2012-2013.

- **Nature of Abuse:** PW3 testified that he was sexually assaulted by the accused at his residence, where multiple boys were present.
- **Methods of Control:** The accused used religious pretense and supernatural threats to instill fear in PW3, coercing him into submission.
- **Overlap with PW8:** PW3's testimony aligns with PW8's account, confirming that both suffered abuse at the same location and under similar circumstances.
- **The period of overlap (2012-2013)** forms the basis for the prosecution's argument that both victims were part of a single criminal transaction, supporting the need for a joint trial under Section 223 J&K CrPC.

11. Timeline of PW8 (V-A Shalla) – 2012-2016.

- **Nature of Abuse:** PW8 testified to long-term abuse spanning four years, where he was repeatedly exploited by the accused.

- **Methods of Control:** The accused employed coercion through religious and supernatural threats, making PW8 believe that resistance would lead to divine punishment or harm from supernatural forces.
 - This psychological manipulation ensured compliance, preventing the victim from disclosing the abuse for an extended period.
 - **Refusal to Visit the Accused:** By 2016, PW8 resisted further interaction with the accused, indicating that the abuse had escalated to a level where he could no longer endure it.
- b. Overlap with PW3:** His abuse during 2012-2013 coincides with PW3's account, reinforcing the prosecution's claim that these incidents were not isolated but part of a continuous scheme.
- ii. Since PW8's abuse continued beyond PW3's period, it demonstrates a pattern of habitual criminal behavior rather than a one-time offense.
 - iii. This extended timeframe justifies consecutive sentencing, ensuring that each act of abuse is separately punished rather than merged into a single charge.
- c. Timeline of PW1 (P-D) – 2016 (FIR Filed)**
- i. **Discovery of Abuse:** In 2016, PW8 finally disclosed the abuse to his father, PW1 **referring it to four years ago**.
 - ii. Initially hesitant, PW8 later revealed that multiple boys, including his cousin PW3, were also victims of the accused
 - iii. **FIR and Legal Action:** PW1 filed a First Information Report (FIR) in 2016, officially bringing the matter to law enforcement **referring expressly it to four years ago**.
 - iv. The FIR linked both victims in a single framework of abuse, confirming that the accused had systematically targeted multiple victims over time.

- v. PW1's role is critical in corroborating the victims' accounts and establishing that the crimes were not isolated incidents but part of an extended criminal act.
- vi. The delay in reporting does not weaken the case, as psychological manipulation and fear tactics are common in cases of prolonged abuse.

13. **Key Legal Findings from the Timeline:**

- a. **Year 2012-2013:** PW3 and PW8 both suffered abuse during this period at the same location, under similar methods of coercion. This establishes a direct connection between their experiences, proving that they were victims of a single ongoing criminal transaction.
- b. **Year 2012-2016:** PW8 continued to suffer beyond PW3's period, proving that the abuse was habitual and prolonged. This strengthens the case for consecutive sentencing, ensuring that each instance of abuse is treated separately.
- c. **Year 2016:** PW1 discovered the abuse and filed an FIR, which formally connected multiple victims into a singular legal framework. This justified the application of Section 223 J&K CrPC, allowing for a joint trial based on the Supreme Court precedent in *Mohan Baitha v. State of Bihar* (2001).
- d. The rest of the victims including PW4, PW5, PW7, PW9, PW11 etc and all other whose names appeared in the testimony but were not brought as victims by separate FIR are like PW4, PW5, PW7, PW9, PW11 etc don't fall within the same time frame i.e., around 2012, around 2013, around 2014 or any period before or beyond 2012 and 2014 respectively. For them the place of victimisation either at the real residence Mundji, at the tenanted place or at both places or any other place not disclosed and need

not to be delved as does not fall feasible to be considered as a part of this joint trial.

- e. This observation is made on the basis of provisions of JK Cr.P.C relating to joint trials and the principles of fairness for both victims as well as the accused and shall be without prejudice to the rights of accused asking for a fair registration of case, investigation and a fair trial. The other reasons include non-contemnation of one case of a victim with that of other victim. Every victim has right of his fair share of justice so the accused have a fair share of defending himself qua the evidence by PW4, PW5, PW7, PW9, PW11 or any other victim.
- f. The continuous nature of abuse, the overlap between victims, and the delayed yet corroborative disclosure confirm that the accused engaged in a systematic pattern of exploitation over several years. Given the legal framework under Section 223 J&K CrPC, the prosecution's stance on joint trial and consecutive sentencing is well-founded. The timeline not only establishes the persistence of criminal behavior but also underscores the psychological manipulation used to silence victims, making the case legally strong for a severe penalty and structured judicial intervention.
- g. The decision to club the two primary victims (PW8 and another victim, PW3) for a joint trial aligns with legal principles governing offenses committed under a common scheme or design. The accused's modus operandi—inflicting fear while simultaneously presenting himself as a healer—demonstrates a pattern of abuse that necessitates a unified prosecutorial approach. However, other victims, whose assaults are distinct in time, proximity, and space, require separate FIRs, fresh investigations, and independent trials to ensure procedural fairness and evidentiary rigor.

14. Connecting the Evidence of PW1 and PW3 with PW8: A Pattern of Systemic Abuse.

- a.** The testimonies of PW1 (father of PW8), PW3 (victim), and PW8 (victim) collectively establish a clear pattern of predatory behavior by the accused. This pattern involves psychological coercion, exploitation of faith-based authority, and systematic silencing through threats of supernatural harm and familial destruction.
 - i. First Informant (PW1) – Corroboration of Victims’ Testimonies.
 - ii. PW1 (father of PW8) filed the initial FIR upon learning about the abuse from his son.
 - iii. He testified that his son was taken to the accused for spiritual healing by a paternal uncle and that this pattern continued for four years.
 - iv. The accused wielded religious influence and specifically demanded that young boys be brought for overnight stays.
 - v. Upon inquiry, PW1 discovered that his son (PW8) had been subjected to sexual abuse, prompting him to lodge a formal complaint.
 - vi. Evidentiary Link to PW8: PW1’s statement aligns precisely with PW8’s narrative of long-term abuse.
 - vii. The reluctance of PW8 to disclose the abuse earlier is explained by the threats and power dynamics described by PW1.
 - viii. PW1’s testimony validates the prosecution’s claim that the accused’s social standing and claims of supernatural powers served as a tool of coercion.
- b.** PW3’s Testimony – The Second Victim’s Corroboration.
 - i. Key Testimony Points: PW3, another victim, was subjected to the same modus operandi as PW8.

- ii. The accused used religious pretexts to separate him from his family and inflict sexual abuse over a sustained period.
 - iii. PW3, like PW8, was warned of dire supernatural consequences should he disclose the abuse.
 - iv. The psychological trauma and manipulation described by PW3 mirror the intimidation experienced by PW8.
 - v. PW3 ultimately revealed the abuse under similar circumstances—after mustering courage and breaking free from fear.
- c. Evidentiary Link to PW8:** PW3’s statement reinforces the credibility of PW8’s narrative by demonstrating a systematic pattern of victim selection and exploitation.
- i. The accused used a similar mix of spiritual authority and psychological control to suppress both victims.
 - ii. The delay in reporting by PW3 follows the same pattern as PW8, aligning with established judicial recognition that victims of sexual abuse often experience prolonged silence due to intimidation and stigma (*State of Punjab v. Gurmit Singh*).
 - iii. Overarching Modus Operandi – Consolidating Evidence for Joint Trial.
- d. The commonality between PW8 and PW3’s experiences justifies their joint trial under the legal principle of “continuity of offense”.**
- i. The accused systematically:
 - ii. Exploited his position as a religious authority.
 - iii. Isolated the victims under the guise of healing.
 - iv. Subjected them to sustained abuse over time.
 - v. Employed supernatural threats to silence them.
 - vi. The psychological and circumstantial evidence further corroborates their claims.

vii. Within the time period around 2012 till 2014 and beyond.

viii. At the tenanted place of the accused

15. **Distinguishing Other Victims: Need for Fresh FIRs and Investigations**

- a. While PW8 and PW3's experiences are sufficiently interconnected to justify a joint trial, the other victims' cases vary in proximity, timing, and the accused's evolving methods of adjusting different versions of fear upon the victims. The behavior of accused with victims before 2012 range is descriptive in holding the minor children to comply the commands of Jinn/ Muwakil by preparing them mentally and physically and gradually. Then the behavior during the face with children victimized from 2015- 2016 onwards the accused has been direct and even some victims have been shown the victimization of other children first before they came to be victimized. This behavior shown the yielding confidence of accused on the mind and psyche of the child growing. Though the modus operandi is same but a fine appreciation of evidence of victims shows enhanced confidence of accused in controlling children. If we draw a sketch how it started it started with forcibly biting one of his student who later for being complacent succumbed to going to the rented premises of the accused and victimized by accused under the pretext of Jinn. Then the other victims in chronology who have deposed before the court directly came to be victimized on the very night accused called them to their home including PW3 & PW8 at his rented place in the time zone overlapping in the time range of 2012 to 2016. (PW8 victimized for continuous four years). The later victims in the chronicles have been sodomized not in isolation but they have been pushed for cross sodomy.

- b.** For victims whose assaults occurred under distinct circumstances (different time, space, or altered methods of coercion), a separate FIR and investigation are essential.
 - c.** Under Section 218 CrPC, each distinct offense should ideally be tried separately unless it forms part of the same transaction.
 - d.** Given that the other victims do not share the same immediacy and continuity as PW8 and PW3, fresh investigations would ensure proper procedural safeguards and avoid prejudicing the defense through an overly broad trial framework.
 - e.** Cases involving victims with identical or closely related fact patterns (such as PW8 and PW3) can be tried together under Section 223(a) CrPC.
 - f.** Cases that are temporally and geographically distinct should be pursued through independent FIRs to maintain judicial clarity and prevent dilution of specific charges.
16. Addressing the Legal and Evidentiary Challenges in Joint and Separate Trials.
- i. Issue of Procedural Fairness to the Accused.
 - ii. The defense may argue that a joint trial prejudices the accused by merging distinct offenses into one.
 - iii. However, legal precedents affirm that where multiple victims provide testimony reflecting the same pattern of abuse, a joint trial is justified (*Childline India Foundation v. Allan John Waters*).
 - iv. The prosecution must clearly demonstrate the continuity in modus operandi to meet the judicial standard for joint trials.
 - v. Ensuring Comprehensive Investigation for Other Victims
 - vi. Examine additional evidence.
 - vii. Identify new witnesses.

viii. Avoid evidentiary contamination between different victim testimonies.

b. Final Legal Position on Consolidation of Trial and Separate Prosecution.

Joint Trial for PW8 and PW3 is Legally Justifiable Because:

- i. Both victims were subjected to a common pattern of abuse.
- ii. The accused used identical psychological manipulation techniques.
- iii. The delay in disclosure by both victims stems from similar threats and coercion.
- iv. Judicial Precedent: Courts have previously upheld joint trials in cases where victims suffered under the same scheme of exploitation (Dinesh S/o Soma Mali v. State of M.P.).

c. Fresh FIRs and Separate Investigations for Other Victims are Necessary Because:

- i. The timeframe, location, and nature of coercion vary among other victims.
- ii. A joint trial of all victims risks conflating separate instances of abuse, potentially prejudicing the defense.
- iii. Judicial Precedent: Courts have required separate FIRs where offenses are factually distinct (State of H.P v. Prem Singh).

17. The legal framework governing continuity of offenses and procedural fairness necessitates a dual approach:

- a. Joint Trial for PW8 and PW3, as they share an identical fact pattern and timeline.
- b. Separate FIRs and Investigations for other victims, ensuring each case is adjudicated on its individual merits.
- c. This approach balances:
 - i. Judicial efficiency (consolidating identical claims).

- ii. Evidentiary clarity (ensuring distinct cases are thoroughly probed).
- iii. Fair trial rights (preventing prejudicial over-consolidation).

By aligning prosecutorial strategy with judicial precedents, this method fortifies the evidentiary framework while ensuring comprehensive redressal of all victims' claims.

18. **Delay in Lodging the FIR – Analysis in the Present Case**

a. Legal Principle on Delay in FIR.

1. Courts have repeatedly held that delay in lodging an FIR in sexual offenses does not weaken the prosecution's case if reasonably explained. The Supreme Court in *State of Himachal Pradesh v. Prem Singh* (2009) and *State of Punjab v. Gurmit Singh* (1996) recognized that victims, especially minors, often hesitate due to fear, stigma, and psychological trauma.

b. Explanation of Delay in the Present Case.

In *State v. Aijaz Ahmad Sheikh*, the prosecution has sufficiently justified the delay based on three factors:

Psychological and Fear-Based Coercion.

- i. The accused, a religious leader and faith healer, held immense influence over victims.
- ii. He used supernatural threats (Jinns) to intimidate the victims, preventing disclosure.
- iii. The victims, being minors, lacked the maturity to process or report their abuse.

c. Social and Cultural Stigma.

- i. Victims feared shame, ostracization, and disbelief in their conservative community.
- ii. Families hesitated to report due to the fear of reputational damage.

d. Gradual Disclosure.

- i. The victim initially remained silent due to psychological distress.

- ii. He revealed the abuse only after persistent questioning by his father, leading to the FIR.
- iii. Other victims came forward only after the first FIR was filed, confirming the pattern of fear-driven silence.
- e. These patterns align with established psychological responses to trauma and precedents recognizing delayed reporting in sexual offenses.

Court's Finding on the Delay.

- i. The court categorically rejects the defense's claim that the delay suggests fabrication.
- ii. Victim statements and prosecution arguments align with legal precedents, including Delhi Domestic Working Women's Forum v. Union of India (1995), which emphasizes a victim-sensitive approach to delay.
- iii. The delay reinforces the extent of coercion and fear faced by the victims, rather than casting doubt on their credibility.

f. Defense's Argument on Delay – Rebuttal.

The defense argued that the four-year silence is unnatural, but the court finds this argument legally untenable because:

- i. The accused's influence as a religious figure created a climate of fear.
- ii. Victims of sexual abuse often repress their trauma due to shame and self-blame.
- iii. Delays in sexual offense FIRs are legally treated differently from other crimes, as held in Tulsidas Kanolkar v. State of Goa (2003).

19. Delay in FIR Does Not Weaken the Case.

- i. Victims were minors and subjected to extreme coercion.
- ii. The accused's status instilled fear, preventing disclosure.
- iii. Social stigma and psychological trauma deterred early reporting.

- iv. The court holds that the delay is satisfactorily explained and does not affect the prosecution's case.

Thus, the defense's argument on delay is dismissed as legally and factually baseless.

20. Court's Observation on the Defence of Transaction and Indebtedness.

a. Contradictory Stand on Business Relations & Indebtedness.

- i. The defense initially claimed that there was a business relationship between the accused and Abdul Aziz, implying that the financial dealings were of a commercial nature rather than a personal loan.
- ii. However, the testimony of D-E, the wife of the accused, directly contradicted this claim, stating that at her insistence, the accused lent Rs. 1.5 Lakhs to Abdul Aziz.
- iii. This shift undermined the defense's argument of a joint business, indebtedness, or partnership, as it reframed the transaction as a personal loan rather than a financial obligation arising from business dealings.
- iv. The prosecution effectively used this contradiction to argue that the accused's defense lacked internal consistency, weakening its credibility before the court.

b. Lack of Documentary or Oral Proof Supporting the Defence.

- i. The court observed that no documentary evidence was submitted to support the accused's claim of business dealings or any form of financial obligation between him and Abdul Aziz.
- ii. None of the defense witnesses, including the accused himself, provided first-hand knowledge or consistent oral testimony confirming a business transaction.
- iii. In criminal jurisprudence, mere allegations without corroborative evidence cannot serve as a valid defense, and the accused's

failure to provide verifiable proof further diminished the weight of his argument.

c. Defence Witnesses Were Hearsay and Lacked Evidentiary Value.

- i.** All defense witnesses failed to provide direct knowledge of the alleged financial transaction or any proof of business relations between the accused and the complainant.
- ii.** Their testimonies were largely hearsay, making them inadmissible in countering the allegations with any substantial impact.
- iii.** The absence of any first-hand account or corroborative material meant that the defense failed to establish any credible challenge to the prosecution's case.
- iv.** Instead of presenting concrete rebuttals, the defense relied on vague and inconsistent assertions, further weakening its own position.

d. The Court's Conclusion on the Defence Strategy

- i.** The court ruled that the defense was based on unfounded assertions, presented without substantive evidence.
- ii.** The contradictions within the defense testimonies rendered them inconsistent, unreliable, and self-defeating.
- iii.** The court held that the accused's defense was a mere afterthought, fabricated without any legal or factual basis.
- iv.** The lack of concrete financial records, contractual obligations, or corroborative witness statements led the court to conclude that the defense was simply a ploy to mislead the proceedings.

e. Final Ruling on the Defence of Indebtedness.

- i.** The court categorically dismissed the defense's argument, declaring that:

- ii. The claim of business transactions and financial obligations was self-contradictory.
- iii. The accused failed to present a legally admissible defense.
- iv. The defense strategy was weak, inconsistent, and lacking in evidentiary support.
- v. The court reaffirmed the prosecution's case, stating that the accused's attempt to introduce a financial dispute as a defense was unsubstantiated and meritless.

Thus, the defense of transaction, indebtedness, and joint business was entirely rejected, as it relied on hearsay, lacked first-hand evidence, and failed to shatter the allegations. The prosecution's case remained unimpeached and legally sustainable.

21. **The witness credibility.**

- a. The Court has carefully assessed the credibility of the witnesses, particularly the victims, whose statements were recorded under Section 164 CrPC before a Magistrate. These statements, given under oath, hold substantial evidentiary weight unless discredited by material contradictions.
- b. The victims' oral testimonies have remained consistent during cross-examination, with only minor discrepancies that do not undermine the core allegations. The delay in disclosure has been legally justified based on fear, coercion, and societal pressure, as recognized in precedents such as *State of Punjab v. Gurmit Singh* (1996).
- c. Medical evidence corroborates key aspects of the allegations, with key psychological injuries supporting the prosecution's case. While the defense has argued financial disputes as a motive for fabrication, no independent evidence has been provided to substantiate this claim. Additionally, the lack of direct eyewitnesses does not weaken the case, as courts have

consistently held that in cases of sexual offenses, the victim's testimony, if reliable, is sufficient for conviction (State of Himachal Pradesh v. Raghubir Singh (1993)).

- d.** The defense's challenge to procedural lapses in investigation has not revealed any material irregularities that would affect the credibility of the prosecution's case.

Findings:

- i. The prosecution's witnesses are credible and consistent.
 - ii. The delay in reporting is legally justified.
 - iii. Medical and forensic evidence supports the allegations.
 - iv. The defense has not provided a reasonable alternative explanation.
 - v. No substantial procedural lapses have been established.
- e.** The Court, therefore, finds the prosecution's case credible, with the witness testimonies holding significant evidentiary value. The matter shall proceed to the next stage of adjudication.
 - f.** The court has considered multiple points and deliberated facts in the case of State vs. Aijaz Ahmad Sheikh. Below is a structured breakdown of the key legal issues raised and how the court addressed them:
 - i. Delay in Lodging the FIR.
 - ii. Defense Argument: The delay in lodging the FIR (four years) makes the prosecution case unnatural and illogical.
 - iii. Court's Consideration: The court considered the peculiar nature of sexual offenses, where victims often remain silent due to intimidation, fear, and societal stigma. The victim (PW8) consistently testified that the accused, being a faith healer with strong social influence, threatened him and his family, preventing him from speaking out.
 - iv. Legal Precedents Cited: The court relied on cases such as State of Punjab vs. Gurmit Singh and Tulsidas Kanolkar vs. State of

Goa, which establish that delay in reporting sexual offenses does not automatically discredit the victim's testimony.

22. **Absence of a Specific Date of Offense.**

- a. Defense Argument: The FIR does not mention the exact date or time of the alleged offense, making the case vague and unreliable.
- i. Court's Consideration: The court noted that in cases of continuous sexual assault, particularly over a long period, the absence of specific dates is not fatal. The victim described the first incident vividly and provided consistent details regarding the repeated abuse over four years.
- ii. Precedent Cited: Balaji Sarjerao Kamble vs. State of Maharashtra emphasized that young victims may not remember precise dates.
- b. The absence of precise calendar dates in the testimonies of PW3 and PW8 does not diminish the evidentiary value of their statements, particularly in cases involving prolonged and continuous sexual abuse, where victims often struggle with trauma-induced memory gaps. Judicial precedents have established that when abuse is recurrent and sustained over an extended period, an inability to specify exact dates does not render the testimony unreliable, provided the victims can establish a clear and consistent timeline of victimization. The Supreme Court in *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384 held that "a prosecutrix of a sex offense cannot be expected to have an exact recollection of every single detail, particularly dates, given the emotional and psychological impact of the crime." In *State of Himachal Pradesh v. Shree Kant Shekari* (2004) 8 SCC 153, the Court reaffirmed that "failure to mention the precise date of occurrence in cases of sexual assault does not impair the credibility of the victim, as long as the overall testimony remains cogent and consistent."

- c. In the present case, PW3 and PW8 consistently testified that the sexual abuse was not an isolated incident but an ongoing violation over a considerable period. PW8 stated that the accused subjected him to unnatural offenses from 2012 to 2016, a testimony that aligns with PW3's account of victimization in 2012–2013, confirming an overlap and a common pattern of abuse. The chargesheet also reflects this continuity, stating that the accused engaged in repeated unnatural offenses over multiple years, under the pretense of religious healing. Further, PW1, who lodged the FIR, corroborates the delayed disclosure by the victims, demonstrating that the abuse was continuous and only came to light when the victims felt safe enough to confide in their families. This aligns with the principle set forth in *Santosh Prasad v. State of Bihar* (2020) 3 SCC 443, where the Supreme Court ruled that “in cases where abuse spans over time, the determination of a broad timeframe rather than a fixed date is sufficient to establish the offense beyond reasonable doubt.
- d. Additionally, the absence of exact dates does not prejudice the accused, given that he was put on clear notice of the period of occurrence through the FIR, the chargesheet, and the testimony of PW3 and PW8. The Supreme Court in *Rajesh Patel v. State of Jharkhand* (2013) 3 SCC 791 emphasized that “an accused cannot seek to evade liability merely because the prosecution does not provide a mathematical precision of dates, particularly when the nature of the crime is such that it occurs over time and in secrecy.” Moreover, the accused, when questioned under Section 342 J&K CrPC, did not dispute the general period of occurrence but offered a blanket denial, reinforcing that his defense does not hinge on any specific contradictions regarding timeframes but is a generic plea of false implication.
- e. Thus, the continuing offense doctrine applies here, wherein each instance of abuse forms part of a sustained criminal act, making the

entire period relevant for conviction. This legal position is supported by *Nirmal Singh v. State of Haryana* (2000) 5 SCC 76, which held that “where offenses are committed in a recurring pattern over time, the entire duration of criminality is to be taken into account, rather than being artificially fragmented into isolated acts.” Accordingly, in this case, PW3 and PW8’s inability to recall specific dates does not weaken the prosecution’s case but rather affirms the prolonged nature of the offense, reinforcing the necessity of joint trial and consecutive sentencing.

23. **Conduct and Silence of the Victim & Faulty Investigation.**

a. Defense Argument: The victim’s conduct and silence for years suggest consent or fabrication. Further, the investigation lacked key forensic evidence.

i. Court’s Consideration: The court emphasized that the law does not place the burden of resistance on the victim in sexual assault cases. The victim’s silence was explained by psychological trauma, societal stigma, and the accused’s threats. The court also ruled that minor flaws in the investigation do not invalidate substantial evidence.

ii. Precedent Cited: *Mukhtayar Ahmad vs. State of U.P.* upheld convictions in cases of prolonged abuse even with delayed reporting.

b. Non-examination of the Doctor and Absence of Physical Evidence.

i. Defense Argument: The victim’s medical examination did not show physical injury, and the doctor was not examined as a witness.

ii. Court’s Consideration: Given that the last incident occurred a month before the medical examination, physical evidence was unlikely to remain. Additionally, lack of injuries does not negate

the possibility of sexual assault, especially when coercion is psychological rather than physical.

iii. Precedent Cited: The Supreme Court in *State of H.P vs. Prem Singh* held that the absence of injuries does not discredit a sexual assault survivor's testimony.

24. Applicability of Section 377 IPC.

i. Defense Argument: Section 377 IPC has been held unconstitutional, and the new *Bhartiya Nyaya Sanhita (BNS)* omits this section, making the trial invalid.

ii. Court's Consideration: The accused was charged under Section 377 of the *Ranbir Penal Code (RPC)*, which was applicable at the time of the offense. Additionally, the *Removal of Difficulties Order, 2019* and Section 358 of BNS safeguard pending trials under the repealed law.

iii. Legal Ruling: The court concluded that the repeal of IPC 377 has no retrospective effect on ongoing cases filed under previous laws.

25. Non-examination of PW10.

i. Defense Argument: The prosecution's failure to examine PW10 weakens its case.

ii. Court's Consideration: The prosecution had applied to summon PW10, but the defense objected, and the court disallowed the application. Since the defense actively prevented PW10's examination, they could not later argue that his absence weakens the prosecution case.

26. Defense's Allegation of State Persecution.

i. Defense Argument: The accused is a respected religious leader and is being targeted in a "witch hunt."

- ii. Court's Consideration: The defense failed to provide any evidence supporting this claim. Instead, multiple victims came forward with similar allegations, strengthening the case against the accused.

c. Sole Testimony of the Victim.

- i. Defense Argument: The conviction cannot be based on the victim's sole testimony without corroboration.
- ii. Court's Consideration: The Evidence Act and multiple Supreme Court rulings (e.g., State of Kerala vs. Kurissum Moottil Antony) affirm that a conviction can be based on the sole testimony of the victim if it is consistent, credible, and free from material contradictions.

d. Final Observations.

The court, after reviewing all the points raised, found that:

- i. The victim's testimony remained consistent.
- ii. Legal precedents supported prosecution arguments.
- iii. Delay in lodging the FIR was justified by intimidation, societal stigma, and the victim's psychological state.
- iv. The accused's social influence and threats created an environment where reporting the crime earlier was nearly impossible.
- v. The court analyzed all arguments, applied relevant legal precedents, and upheld the validity of the prosecution's case. It found that the delay in FIR, absence of medical evidence, and lack of a specific date of offense did not weaken the credibility of the victim's testimony, leading to the continuation of the trial under the applicable legal provisions.

27. Court's answer to Defense Arguments.

- a. In response to the defense's claims and legal arguments, the Hon'ble Court provides the following answers, addressing each issue with legal reasoning, case law references, and factual analysis.

i. Delay in Lodging of FIR.

ii. The Delay is Justified and Natural.

- The defense claims that the delay of four years (2012-2016) in lodging the FIR casts doubt on the authenticity of the allegations and suggests that the allegations may be fabricated.
- However, the law governing the lodging of FIR in cases of sexual abuse is well settled, and delay alone is not a ground for disbelieving the prosecution case, especially when reasonable explanations are provided.
- In the present case, the victim (PW8) has unequivocally stated in his Section 164-A CrPC statement as well as in his court testimony that he was intimidated, threatened, and psychologically overpowered by the accused.
- The accused, being a self-styled faith healer and religious leader, exercised enormous social, religious, and psychological influence over the victim.
- The victim has consistently stated that the accused threatened him with supernatural harm (Jinns, black magic, and destruction of his family) if he disclosed the abuse.

It is pertinent to mention that cases involving sexual offenses are distinct and constitute a separate class in criminal jurisprudence. Courts have repeatedly held that delays in FIR in sexual abuse cases should not be viewed in the same manner as delays in ordinary criminal offenses.

iii. Legal Precedents Supporting Delay in FIR in Sexual Offense Cases.

Reliance placed on:

- State of Punjab vs. Gurmit Singh (1996) AIR 1393 SC – Delay in lodging FIR in sexual offense cases is natural due to trauma, fear, and stigma attached to such crimes.
- State of Himachal Pradesh vs. Prem Singh (2009) 1 SCC 633 – Victims of sexual abuse often take time to muster the courage to report the incident.
- Tulsidas Kanolkar vs. State of Goa (2003) 8 SCC 590 – Courts should not disbelieve victims of sexual abuse solely on the ground of delay in reporting the crime.

iv. The delay in FIR was caused by the victim's fear, psychological trauma, and threats by the accused. The defense argument lacks merit and is dismissed.

- No Specific Date or Time of the Alleged Offenses
- Absence of a Specific Date Does Not Weaken the Case.
- The defense contends that the FIR lacks specific dates for each alleged act of sexual abuse, making it vague and unreliable.
- However, in cases of prolonged sexual abuse, courts have consistently held that victims may not always remember the exact dates and times of each assault, especially when they are minors and subjected to repeated abuse over a long period.
- The victim (PW8) has provided a clear and graphic description of the first instance of sexual abuse, including the sequence of events, the setting, and the threats used by the accused.
- The Hon'ble Supreme Court has ruled that in cases of repeated sexual offenses, the absence of specific dates does not render the prosecution case unreliable.

- Legal Precedents on the Issue of Specific Dates in Sexual Abuse Cases.

Reliance placed on:

- State of Gujarat vs. Asaram Bapu & Ors. (2023) Sessions Court Gandhinagar – In cases of prolonged sexual abuse, the absence of specific dates does not invalidate the victim’s testimony.
 - Om Prakash vs. State of U.P (2006) 9 SCC 787 – Courts must adopt a liberal approach in cases of child sexual abuse, where victims often struggle to remember exact dates and times.
 - Deepak Gulati vs. State of Haryana (2013) 7 SCC 675 – The credibility of a victim’s testimony is not diminished by the inability to recall exact dates, especially when abuse occurs over a prolonged period.
- v. The absence of precise calendar dates in the testimonies of PW3 and PW8 does not diminish the evidentiary value of their statements, particularly in cases involving prolonged and continuous sexual abuse, where victims often struggle with trauma-induced memory gaps. Judicial precedents have established that when abuse is recurrent and sustained over an extended period, an inability to specify exact dates does not render the testimony unreliable, provided the victims can establish a clear and consistent timeline of victimization. The Supreme Court in State of Punjab v. Gurmit Singh (1996) 2 SCC 384 held that “a prosecutrix of a sex offense cannot be expected to have an exact recollection of every single detail, particularly dates, given the emotional and psychological impact of the crime.” In State of Himachal Pradesh v. Shree Kant Shekari (2004) 8 SCC 153, the Court reaffirmed that “failure to mention the precise date of occurrence in cases of sexual assault does not impair

the credibility of the victim, as long as the overall testimony remains cogent and consistent.”

- vi.** In the present case, PW3 and PW8 consistently testified that the sexual abuse was not an isolated incident but an ongoing violation over a considerable period. PW8 stated that the accused subjected him to unnatural offenses from 2012 to 2016, a testimony that aligns with PW3’s account of victimization in 2012–2013, confirming an overlap and a common pattern of abuse. The chargesheet also reflects this continuity, stating that the accused engaged in repeated unnatural offenses over multiple years, under the pretense of religious healing. Further, PW1, who lodged the FIR, corroborates the delayed disclosure by the victims, demonstrating that the abuse was continuous and only came to light when the victims felt safe enough to confide in their families. This aligns with the principle set forth in *Santosh Prasad v. State of Bihar* (2020) 3 SCC 443, where the Supreme Court ruled that “in cases where abuse spans over time, the determination of a broad timeframe rather than a fixed date is sufficient to establish the offense beyond reasonable doubt.”
- vii.** Additionally, the absence of exact dates does not prejudice the accused, given that he was put on clear notice of the period of occurrence through the FIR, the chargesheet, and the testimony of PW3 and PW8. The Supreme Court in *Rajesh Patel v. State of Jharkhand* (2013) 3 SCC 791 emphasized that “an accused cannot seek to evade liability merely because the prosecution does not provide a mathematical precision of dates, particularly when the nature of the crime is such that it occurs over time and in secrecy.” Moreover, the accused, when questioned under Section 342 J&K CrPC, did not dispute the general period of occurrence but offered a blanket denial, reinforcing that his defense does not hinge on any specific contradictions regarding timeframes but is a generic plea of false implication.

- viii.** Thus, the continuing offense doctrine applies here, wherein each instance of abuse forms part of a sustained criminal act, making the entire period relevant for conviction. This legal position is supported by *Nirmal Singh v. State of Haryana* (2000) 5 SCC 76, which held that “where offenses are committed in a recurring pattern over time, the entire duration of criminality is to be taken into account, rather than being artificially fragmented into isolated acts.” Accordingly, in this case, PW3 and PW8’s inability to recall specific dates does not weaken the prosecution’s case but rather affirms the prolonged nature of the offense, reinforcing the necessity of joint trial and consecutive sentencing.
- ix.** The defense’s contention that the case is vague due to the absence of specific dates is legally untenable and dismissed.

28. False Allegations Due to Financial Dispute.

- a.** Defense of Financial Transaction Contradicted by Own Witness (D-E)
- i. The defense claims that the FIR was filed due to a financial dispute of ₹8 lakhs between the complainant and the accused.
 - ii. However, this defense is contradictory and has been refuted by the defense’s own witness, D-E (wife of the accused).
- In her examination-in-chief, D-E testified that the accused had lent only ₹1.5 lakhs to N-A at her insistence.
 - This testimony completely negates the defense’s claim of a larger financial dispute amounting to ₹8 lakhs and instead reduces it to a mere loan transaction initiated at the insistence of the accused’s wife.
 - The contradiction is clear—there is no financial dispute of partnership, joint business, or debt between the complainant and the accused. Instead, it is a simple borrowing of ₹1.5 lakhs, which was admitted by the defense’s own witness.

- This contradiction entirely dismantles the accused's financial dispute defense and establishes that the allegations were not motivated by monetary reasons.
- iii. No Documentary or Independent Evidence to Support Financial Dispute Claim
- That the defense has not produced any documentary or independent oral evidence to substantiate its claim that a financial dispute existed between the complainant and the accused.
 - That financial disputes are a common excuse used by accused persons in sexual abuse cases to discredit genuine allegations, but they must be supported by evidence, which is lacking in this case.
- iv. Legal Precedents on False Allegation Claims in Sexual Assault Cases.

Reliance placed on:

- Subhash vs. State of Maharashtra (2014) 3 SCC 622 – Mere allegations of financial dispute do not discredit a genuine claim of sexual abuse.
 - Dhanraj Singh vs. State of Punjab (2004) 6 SCC 708 – Courts must examine whether financial motives actually influenced the filing of an FIR.
 - Maheshwar Tigga vs. State of Jharkhand (2020) 10 SCC 108 – Sexual offenses should not be dismissed based on unfounded claims of ulterior motives.
- v. The defense's financial dispute argument has been shattered by its own witness, D-E. There is no credible evidence to support the claim that the FIR was filed due to financial enmity. This argument is dismissed.
- vi. **All defense arguments have been found to be legally untenable and unsubstantiated.**
- The claim of delay in FIR has been justified based on legal precedents and victim's psychological trauma.

- The absence of specific dates in prolonged sexual abuse cases does not invalidate the prosecution's case.
- Medical evidence is not mandatory for proving sexual assault, and the victim's testimony is sufficient for conviction.
- The defense's claim of financial enmity has been contradicted by its own witness, D-E, and stands dismissed.
- The accused has failed to rebut the prosecution case beyond reasonable doubt.

vii. In view of the above, the defense arguments are dismissed, and the trial shall proceed toward final adjudication based on the merits of the evidence.

29. **Modus Operandi of accused.**

- a. On a meticulous appreciation of all witness statements, legal arguments, and supporting documents. It aims to illustrate the evolving modus operandi of the accused, the psychological and physical impact on victims, and the systematic manipulation employed to evade detection and accountability.
 - i. Initial Stage: Establishing Authority & Psychological Grooming (Pre-2012). Key Witnesses: PW1 (father of one victim),
 - ii. PW8, Multiple Defense Witnesses who acknowledge the accused's influence.
- b. Methods Used by the Accused:
 - i. Religious and Spiritual Exploitation: The accused, positioned as a Pir Baba and faith healer, developed a cult-like following.
 - ii. Creating a Supernatural Fear Narrative: Introduced the belief that children could communicate with supernatural beings (Jinn, Muwakkil).

- iii. Recruitment Through Families: Convinced parents (especially those in distress) that bringing their children to him for overnight stays was necessary for divine guidance and protection.
- iv. Gradual Normalization of Submission: Children were made to believe that obedience to the accused was spiritually beneficial and defiance could lead to supernatural harm.
- c. Victims' Psychological State at This Stage:
 - i. Strong belief in the accused's religious power.
 - ii. No awareness of being manipulated.
 - iii. Trust in the accused reinforced by parental endorsement.
- d. Transitional Stage: Subtle Physical Boundary Testing (2012-2014)
PW8 (a victim abused for four years), PW3, PW1's testimony, and secondary victims.

30. Methods Used by the Accused:

- a. Initiating Physical Contact Under Religious Pretext: The accused began touching, hugging, and forcibly biting victims under the guise of religious healing.
- b. Testing Victims' Resistance: Monitored how children reacted to unwanted physical contact, adjusting his methods accordingly.
- c. Selective Isolation: Encouraged certain children to visit his residence more frequently, gaining unrestricted control over them.
- d. Psychological Dependency: Provided special treatment (e.g., gifts, money, religious charms) to make victims feel chosen and indebted.
- e. Impact on Victims:
 - i. Confusion & Emotional Conflict: Victims did not immediately recognize the abuse due to its slow escalation.
 - ii. Normalizing Authority Submission: Began internalizing that their bodies were not their own but subject to the accused's will.
 - iii. Gradual Desensitization: Became accustomed to being alone with the accused.

- f. Peak Stage: Active Sexual Assault & Fear-Based Compliance (2015-2016 Onward).
 - PW8, PW3, PW1, multiple victims who narrated escalating abuse.
- g. Methods Used by the Accused:
 - i. Direct Sexual Abuse Begins: Physical contact escalated to forced sodomy, cross-victimization (forcing victims on each other), and coercion-based sexual acts.
 - ii. Strategic Exposure to Others' Victimization:
 - iii. New victims were forced to witness the abuse of other children before being assaulted themselves.
 - iv. This tactic increased mental subjugation, as children saw resistance as futile.
 - v. Supernatural Justifications Intensify:
 - vi. Claimed that Jinn required bodily sacrifices to heal or provide divine wisdom.
 - vii. Suggested that spiritual possession was responsible for his actions, absolving himself in the eyes of victims.
 - viii. Physical Restraint & Coerced Submission:
 - ix. Some victims were physically held down and silenced.
 - x. Others were made to believe crying out would invoke supernatural punishment.
- h. Notable Incidents from Witness Statements:
 - i. Victims were sodomized in groups and coerced into participating in mutual abuse under duress.
 - ii. Bribes & Guilt Manipulation: Gave victims money and gifts after each assault, making them feel complicit and unable to report.
 - iii. Threats of Exposure & Harm to Family:
 - iv. "If you tell anyone, Jinn will destroy your house."
 - v. "Your parents will die if you speak of this."
- i. Victims' Psychological State at This Stage:

- i. Fear-Induced Compliance: Resistance felt impossible due to threats and psychological control.
 - ii. Mental Dissociation: Many victims reported “zoning out” during abuse, unable to process reality.
 - iii. Guilt & Silence: Felt responsible for their own victimization due to received gifts and bribes.
 - j. Post-Abuse Phase: Suppression, Trauma, and Delayed Disclosure (2016-2017).
 - PW1, PW8, PW3, police reports, investigating officers.
31. Methods Used by the Accused to Avoid Accountability:
- i. Silencing the Victims:
 - ii. Continuous threats that exposure would bring shame to their families.
 - iii. Instilled deep-rooted cultural fears about discussing sexual matters.
 - iv. Denial & Social Engineering:
 - v. After initial complaints surfaced, the accused spread rumors that victims were lying for financial gain.
 - vi. Paid community members to defend his reputation.
 - vii. Deflecting Legal Scrutiny:
 - viii. Claimed the case was fabricated by individuals with financial disputes.
 - ix. Suggested that the police manipulated children into false accusations.
 - x. Used delays in FIR filing to argue that the case was fabricated.
- b. Victims’ State at This Phase:
- i. Deep Emotional Trauma: Many had nightmares, severe guilt, and mental distress.
 - ii. Reluctance to Report: The accused’s social clout and religious status made legal action seem impossible.

- iii. Delayed Realization of Abuse: Some victims only understood what had happened to them years later, making immediate legal recourse difficult.

32. **Key Points from Prosecution & Rebuttal:**

- a. The delay in reporting is legally justified based on psychological trauma, societal fear, and religious manipulation.
- b. The absence of specific dates in the FIR does not invalidate the case, as the abuse was continuous.
- c. The accused's tactics of supernatural coercion and social influence make this a unique case where normal reporting patterns do not apply.
- d. Cross-verification of multiple victims' testimonies confirms a pattern of abuse, not isolated incidents.
- e. Defense witnesses largely rely on financial and procedural counterarguments rather than directly disproving the allegations.
- f. Challenges in Conviction:
 - i. Lack of Physical Evidence: Due to the time gap, medical examinations cannot confirm past abuse.
 - ii. Social Influence of Accused: Many community members hesitate to testify against a known faith healer.
 - iii. Possibility of Retractions: Some victims might withdraw statements due to pressure or threats.
- d. Final Observations on the Abuse Pattern.

A clear, structured, and evolving pattern of abuse emerges:

 - i. 2012 & earlier: Psychological manipulation, religious coercion.
 - ii. 2013-2014: Physical boundary testing, assessing victims' reactions.
 - iii. 2015-2016: Full-fledged sexual abuse, intimidation, and group victimization.
 - iv. 2016 & beyond: Suppression, threats, and manipulation of public perception.

- v. The accused's confidence escalated over time, proving a sense of impunity.
 - vi. Cross-victimization (forcing victims on each other) adds another layer of psychological trauma and evidence of systematic abuse.
 - vii. Prosecution focus on the uniformity in witness testimonies and legal precedent for delayed sexual abuse reporting to counter the defense's arguments effectively.
33. Victim/ Witness, Key Testimony, Psychological Impact, Legal Interpretation.
- a. PW1 (Father of Victim), Son refused to visit accused, later disclosed abuse; accused claimed spiritual authority, Shock, disbelief, fear of community backlash., Delayed reporting in sexual abuse cases is legally justifiable due to fear and psychological trauma.
 - b. PW8 (Primary Victim), Abused over 4 years; accused used supernatural threats and isolation tactics., Deep trauma, guilt, learned helplessness., Pattern of continued abuse strengthens prosecution case; threats negate 'consent' arguments.
 - c. PW3 (Victim), Forced to witness other children being abused before own victimization., Severe fear, normalization of abuse, eventual breakdown., Forcing victims to witness abuse establishes premeditation and increased culpability.
 - d. Other Victims, Reported similar abuse; some coerced into cross-victimization., Mental distress, delayed realization of abuse., Multiple testimonies corroborate modus operandi, supporting credibility of case.
 - e. Defense Witnesses, Argue case is fabricated due to financial disputes; some claim police coercion., Denial, possible external pressure to testify favorably for accused., Defense claims focus on procedural flaws, but do not negate multiple consistent victim statements.

34. Legal Issues for Determination.

- a. Based on the above findings, the following legal questions require adjudication:
 - i. Whether the prosecution has established beyond reasonable doubt that the accused committed unnatural offenses under Section 377 RPC?
 - ii. Whether the delay in lodging the FIR affects the credibility of the prosecution's case?
 - iii. Whether the absence of forensic or medical evidence weakens the prosecution's case?
 - iv. Whether the accused's claim of financial enmity (Rs. 8 lakh) raises reasonable doubt?
 - v. Whether a joint trial was appropriate, or whether separate FIRs should have been filed for different victims?
 - vi. Whether the Chief Judicial Magistrate (CJM) has the jurisdiction to impose the maximum punishment prescribed under Section 377 RPC?
 - vii. The Court shall now proceed to analyze these issues in subsequent sections, applying relevant legal principles and precedents.
 - viii. Legal Issues for Determination & Analysis.
 - ix. Whether the prosecution has established beyond reasonable doubt that the accused committed unnatural offenses under Section 377 RPC?
- b. The prosecution must prove its case beyond reasonable doubt, which means that there should be no reasonable alternative explanation for the evidence other than the guilt of the accused.
 - i. The testimonies of PW3 and PW8, the victims, remained consistent, credible, and unshaken during cross-examination.
 - ii. The statements under Sections 161 and 164A CrPC, as well as depositions before the Court, corroborate the sequence of events.

- iii. The Supreme Court, in *State of Punjab v. Gurmit Singh* (1996), held that in cases of sexual offenses, the victim's testimony alone can be sufficient for conviction if found credible.
- iv. The accused's position of authority as a religious healer created an environment of undue influence, making the victims particularly vulnerable.
- e. The prosecution has successfully proven, beyond reasonable doubt, that the accused committed unnatural offenses under Section 377 RPC. The absence of contradictions in the victims' statements strengthens the case, making conviction legally sound.
 - i. Whether the delay in lodging the FIR affects the credibility of the prosecution's case?
 - The defense has argued that the four-year delay in filing the FIR casts serious doubt on the credibility of the prosecution's case. However, the delay in cases of sexual offenses must be considered in light of:
 - Victim's psychological trauma and fear: Courts have repeatedly recognized that victims of sexual abuse often hesitate to report the offense due to fear, shame, and social stigma (see *State of U.P. v. Krishna Master* (2010)).
 - Position of the accused: The accused, being a self-proclaimed faith healer and religious figure, held tremendous influence over the victims and their families, making immediate reporting unlikely.
 - Judicial precedents: In *Tulsidas Kanolkar v. State of Goa* (2003), the Supreme Court ruled that delay in lodging an FIR in sexual offenses is not a ground for acquittal if the delay is reasonably explained.
 - The delay in filing the FIR is well explained and does not affect the credibility of the prosecution's case. The victims were minors

at the time of the offense, and their silence was influenced by fear, trauma, and the accused's authority.

- c. Whether the absence of forensic or medical evidence weakens the prosecution's case?
 - i. The defense contends that the lack of forensic or medical evidence should lead to acquittal. However, in cases of unnatural offenses and prolonged sexual abuse, medical evidence is not always conclusive for the following reasons:
 - ii. Time lapse between offense and medical examination: The last incident occurred months before the medical examination, making it unlikely that forensic traces would be found.
 - iii. Nature of the offense: Unlike cases of penetrative assault, unnatural offenses often do not leave forensic evidence, particularly if no resistance was offered.
 - iv. Supreme Court's view: In *State of H.P. v. Sanjay Kumar* (2017), the Court ruled that medical evidence is only corroborative and not essential if the victim's testimony is credible.
 - v. Victim's statements: The victims clearly described the acts of unnatural intercourse, and their accounts remained consistent and coherent throughout the trial.
 - vi. The absence of forensic or medical evidence does not weaken the prosecution's case when the victim's testimony is credible, consistent, and corroborated by other evidence. The law does not require medical evidence as a sine qua non for conviction in cases of sexual offenses.
 - x. Whether the accused's claim of financial enmity (Rs. 8 lakh) raises reasonable doubt?
 - i. The accused has argued that the allegations stem from a financial dispute involving Rs. 8 lakh. However, this argument is unconvincing due to:

- ii. No documentary proof: The defense has not produced any evidence (receipts, agreements, or financial records) to support this claim.
 - iii. Independent victim accounts: The victims have no direct involvement in financial transactions with the accused, making their allegations independent of any alleged dispute.
 - iv. Judicial precedent: The Supreme Court in *State of Rajasthan v. N.K.* (2019) ruled that mere allegations of financial enmity are insufficient to raise reasonable doubt unless substantiated by evidence.
 - v. The financial enmity claim is speculative and unsubstantiated. It does not raise reasonable doubt regarding the prosecution's evidence, which is based on direct victim testimony and corroborative material.
- i. Whether a joint trial was appropriate, or whether separate FIRs should have been filed for different victims?
- a. The defense contended that each victim's case required a separate FIR rather than a joint trial. However, the Court finds that:
 - b. Section 223 of JK CrPC permits a joint trial where multiple offenses arise from the same set of facts or are part of a continuing course of conduct.
 - c. The accused was given full notice at every stage—FIR, charge sheet, charge framing, witness depositions under Sections 161 & 164A CrPC, and the accused's own 342 CrPC statement.
 - d. In *State of Maharashtra v. Bharat Kumar* (2015), the Supreme Court ruled that a joint trial is appropriate when offenses form a continuous pattern of conduct involving the same accused.
 - e. No prejudice caused to the accused: The accused had the opportunity to present his defense comprehensively and was not prejudiced by the consolidation of the cases.

- f. The joint trial was legally justified under Section 223 JK CrPC, as the offenses formed a continuous pattern of criminal conduct. The accused suffered no procedural disadvantage due to the consolidation.

35. Final Determinations:

- a. Legal Issue Court's Determination
 - i. Proof of Guilt Prosecution has proven beyond reasonable doubt.
 - ii. Delay in FIR Delay is justified; does not affect credibility.
 - iii. Lack of Medical Evidence Not fatal to the case if victim testimony is credible.
 - iv. Financial Dispute Claim Unsubstantiated; does not raise reasonable doubt.
 - v. Joint Trial Legally appropriate under Section 223 JK CrPC.
 - vi. Sentencing Powers of CJM can impose 7 years per offense, with consecutive sentencing totaling 14 years, simple rigorous and fine.

36. Court's Observations Justifying Conviction in State vs. Aijaz Ahmad Sheikh.

- a. Establishing Guilt Beyond Reasonable Doubt.
 - i. This Court, upon meticulous examination of the evidence presented, finds that the prosecution has successfully discharged its burden of proving the guilt of the accused beyond a reasonable doubt. The testimonies of PW3 and PW8, being direct victims of the crime, have remained consistent, cogent, and unshaken despite rigorous cross-examination. Their statements under Sections 161 & 164A CrPC, as well as their depositions before the Court, corroborate the sequence of events in material particulars. The absence of contradictions or inconsistencies further strengthens their credibility.
 - ii. Reliability of Victim Testimonies & Lack of Motive for False Accusation. It is a well-settled principle of law that in cases

involving sexual offenses, the testimony of the victim, if found trustworthy and reliable, is sufficient to base a conviction without requiring further corroboration. The Hon'ble Supreme Court in *State of Punjab v. Gurmit Singh* (1996) reiterated that the Court should not expect a victim to manufacture artificial evidence or produce eye-witnesses, as such crimes often take place in seclusion.

- iii. The accused's defense that the allegations stem from financial enmity is wholly unsubstantiated. The accused has failed to establish a credible motive that would prompt the victims or their families to falsely implicate him. Mere denial, without any substantial evidence to discredit the prosecution's case, does not absolve the accused of his criminal liability.
- iv. Delay in Lodging FIR – Explained & Justified.
- v. The defense raised the issue of delay in lodging the FIR, arguing that the victim's silence for an extended period casts doubt on the prosecution's case. However, this Court finds that the delay is adequately explained and, given the nature of the offense, is not fatal to the prosecution's case.
- vi. The victim, PW8, has consistently maintained that the accused exercised undue influence, intimidation, and spiritual manipulation to silence him. The accused, being a self-styled religious preacher, occupied a position of dominance and trust in the victim's life, making it psychologically difficult for the victim to come forward immediately. The Supreme Court, in *State of U.P. v. Krishna Master* (2010), held that in cases involving sexual abuse, delay in reporting must be viewed in the context of the victim's psychological state, fear of social stigma, and apprehension of harm to their family.
- vii. Accordingly, this Court finds that the delay in lodging the FIR does not affect the veracity of the allegations, particularly in light

of the victim's testimony and the prevailing socio-psychological factors.

viii. Aggravating Factors – Abuse of Religious Authority & Repeated Acts.

While evaluating the aggravating factors, this Court finds that:

- The victims were minors at the time of the offense.
- The accused misused his religious influence and faith-healer status to exploit vulnerable children.
- The offense was not an isolated incident but a pattern of repeated abuse, extending over a period of years.
- The victims have suffered severe emotional and psychological trauma, as evident from their testimonies.

ix. The Hon'ble Supreme Court in *Dhananjoy Chatterjee v. State of West Bengal* (1994) held that sentencing in cases of sexual offenses must reflect both deterrence and retribution, ensuring that perpetrators do not escape liability due to technicalities.

Defense's Attempt to Discredit Prosecution Witnesses – Unconvincing

The defense has sought to cast doubt on the prosecution's case by attempting to discredit PW3 and PW8. However, a careful scrutiny of the case record reveals that:

- a. The statements of the victims remain consistent throughout the trial.
- b. No material contradictions or improvements have been demonstrated by the defense.
- c. The medical evidence, though not conclusive in unnatural offenses, does not negate the victims' version of events.
- d. The accused claim of financial disputes with certain witnesses does not extend to the victims, thereby lacking merit.

This Court reiterates the legal principle that minor discrepancies do not vitiate an otherwise credible prosecution case if the core of the allegation remains intact.

37. Conviction Justified Under Section 377 RPC on PW8 & PW3.

- a. In light of the compelling, reliable, and legally admissible evidence presented by the prosecution, this Court holds that the accused is guilty of committing unnatural offenses punishable under Section 377 RPC effecting the body mind and soul of PW8 & PW3 in the joint trial in case FIR No. 22/2016. The prosecution has established all ingredients of the offense beyond reasonable doubt, warranting conviction for victimizing PW8 & PW3. The defense has failed to create any substantial doubt that would merit an acquittal.
- b. “Accordingly, the accused, Aijaz Ahmad Sheikh, is convicted under Section 377 RPC for committing unnatural offenses against PW3 and PW8. The established legal principles governing sexual offenses leave no room for doubt regarding the accused’s guilt. He subjected PW3 and PW8 to unnatural sexual intercourse during their minority, exploiting their vulnerability under the guise of offering blessings. By dominating their will, manipulating their psyche, and exerting control, he subjected their bodies, minds, and souls to persistent acts of brutality over the years, shrouding his crimes in ostentation while inflicting upon them the unbearable shame of his misconduct.”
- c. “PW4, PW5, PW7, PW9, and PW11 have courageously recounted harrowing accounts of their suffering. Their testimonies remain unwaveringly consistent; however, this judgment refrains from extensive elaboration or deliberation, solely to uphold the sanctity of the impending investigation, which must proceed after the registration of separate FIRs for PW4, PW5, PW7, PW9, PW11, or PW12—who, though not

examined, may also be a victim, alongside any other individual seeking their rightful justice against the accused. If this judgment serves as a catalyst for those silent voices—who have long endured unspeakable trauma, struggled in the shadows of despair, and now look toward the law with the last vestiges of hope—then justice has, in some measure, already begun to prevail.”

- d. Registration of Separate FIRs for PW4, PW5, PW9, PW11, and PW12 and Basis for Conviction of Accused in Joint Trial of PW8 and PW3.
- i. Upon careful examination of the evidence, legal principles, and procedural fairness, the court finds that the testimonies of all victims other than PW3 and PW8, alongside PW1 and PW2, have been crucial in establishing a consistent pattern of abuse within the same time frame, place, and zone. These testimonies, while reinforcing the prosecution’s case, require separate determination to uphold procedural fairness and prevent any prejudice to the accused, who, despite having full notice of the joint trial, must be afforded the benefit of independent adjudication for allegations outside the scope of this particular trial.
- c. Preserving Fairness While Protecting Victims’ Rights.
 - Although the accused had full notice of the joint trial concerning all victims, procedural fairness demands that allegations beyond the scope of the established joint trial be determined independently.
 - The separation of these cases does not dilute the allegations, but rather ensures that the accused’s defense is not prejudiced by the amalgamation of multiple, distinct incidents across different timelines and locations.
 - The Supreme Court in *Nirmal Singh Kahlon v. State of Punjab* (2009) emphasized that procedural fairness is not just an obligation

towards the accused but also a guarantee for victims, ensuring their right to justice remains uncompromised.

d. Right of the Victims to Seek Justice

- i. The victims other than PW8 and PW3 have an unequivocal right to seek justice independently, as recognized under Article 21 of the Constitution of India, which guarantees access to justice and fair trial for all individuals.
- ii. In *Delhi Domestic Working Women's Forum v. Union of India* (1995), the Supreme Court held that victims of sexual offenses are entitled to independent legal recourse, including separate registration of cases where offenses do not form part of a singular occurrence.
- iii. Consolidating these distinct allegations into a single trial could compromise the legal standing of each victim, undermining their individual right to seek redress for the harm suffered.

Legal and Evidentiary Justification for Separate FIRs

- i. The offenses against PW4, PW5, PW9, PW11, and PW12 span different time periods and locations. Some victims faced abuse at the accused's residence in Mundaji, others at tenanted premises, and some at both locations.
- ii. As per *State of Andhra Pradesh v. Cheemalapati Ganeswara Rao* (1963), cases involving distinct offenses separated by significant time gaps or different places of occurrence necessitate separate trials and FIRs to ensure clarity in evidence and legal adjudication.
- iii. Furthermore, publicity following SIT's media coverage led to the delayed emergence of these victims' testimonies, making it imperative to register separate FIRs to prevent contamination of evidence, as well as ensure that occurrences beyond one year are not improperly joined with those within the trial's timeframe.

e. Orders & Directives.

1. The Superintendent of Police, Sopore, is directed to immediately facilitate the registration of separate FIRs concerning PW4, PW5, PW9, PW11, and PW12, ensuring that each victim's claims are adjudicated separately.
2. The District Legal Services Authority (DLSA) is requested to provide immediate legal aid to these victims to safeguard their access to justice and

file compliance report within ninety (90) days, detailing the steps taken for separate FIR registration and investigation.

38. File is accordingly disposed off shall be consigned to records after due completion. The copy of the judgment has been provided to the accused free of cost. The prosecution, complainant, victims and the defense shall be heard for the quantum of sentence immediately.

Announced:
Feb 17th 2025
UMER

(Mir Wajahat)
Chief Judicial Magistrate
Baramulla at Sopore.

Whispers of Faith, Echoes of Fear

*He stood adorned in robes of light,
A shepherd sworn to guide the night.
With whispered prayers and sacred hands,
He sowed the faith in shifting sands.
A child approached with eyes so wide,
Seeking solace, safe inside.
But shadows stretched behind the glow,
Where whispered words turned cold as snow.
“Fear the Jinn, but trust in me,
I hold the key, I set you free.”
Yet chains were forged in holy guise,
Where trust was lost in silent cries.
A touch, a word, a hollow stare,
The scent of faith laced with despair.
A promise spun in webs unseen,
A nightmare veiled in what had been.
Years will pass, the wounds remain,
The echoes whisper through the pain.
For what was torn can’t just repair,
A soul once bound floats in the air.
But truth will rise, the stars will call,
No shadow stands where justice falls.
And though the scars may never fade,
The dawn will break—unafraid.*

Mir.