



2026:AHC-LKO:20953

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 378 DEFECTIVE No. - 30 of 2026

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Applicant(s)

Versus

Ravi Chauhan And 6 Others

.....Opposite
Party(s)

Counsel for Applicant(s)

: G.A.

Counsel for Opposite Party(s)

:

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Smt. Shikha Sinha, the learned Additional Government Advocate-I for the State-appellant and perused the records.

2. The instant criminal appeal has been filed by the State along with an application seeking leave to appeal and an application for condonation of delay of more than hundred days as on the date of filing of appeal against the judgment and order dated 04.08.2025, passed by the learned Special Judge POCSO Act, District Balrampur in Special Session Trial No.83 of 2019, arising out of Case Crime No.140 of 2019, under Section 354-B, 323, 506 I.P.C. and Section 7/8 of Protection of Children from Sexual Offences Act, 2012, Police Station Kotwali Dehat, District Balrampur.

3. In the F.I.R. lodged on 20.05.2019 the complainant has stated that the accused had entered her house and molested his daughter on 14.05.2019 and he has assaulted the complainant's mother, causing a fracture in her leg. The F.I.R. stated the age of the victim to be 15 years. During her examination-in-chief, the victim did not disclose her age and during her examination before the court on 09.12.2022, she stated her age to be 20 years.

4. The victim is not educated and as per her ossification test report her age was opined to be 17 years and the doctor stated that there is an error margin of two years on either side.

5. Examining the aforesaid aspects of the matter, the learned trial court held that the prosecution failed to establish that the victim was a minor on the date of incident.

6. Regarding the incident, the learned trial court has referred to the statement of the victim recorded by it, wherein she stated that the incident took place about 3-3.5 years ago, during summer months while she was lying inside her house with her grand mother, who is deaf, the accused reached near her in the veranda, started calling her and offered her Rs.200/-. When she did not take the money the accused molested her and tore away her clothes. She went inside the house and the accused ran away.

7. The trial court has referred to the statement given by the victim during her cross-examination wherein she stated that the elder brother of her father is working as a chowkidar in the police station. Because he is a chowkidar in the police station people are afraid of him. The victim approved the suggestion that the elder brother of her father lodges a case with the police against any person who keeps animosity against him. She stated that some dispute had occurred between the accused and her father's elder brother and thereafter her father's elder brother lodged the case against the accused. The victim admitted that the accused has not entered her house and she levelled this allegation on the suggestion of her family members. She also admitted that no incident took place against her inside her house.

8. The father of the victim stated that the accused started molesting the complainant's daughter. Hearing the noise his mother got up and started scolding the accused. Thereafter, the accused assaulted the complainant's mother with a stick causing a fracture in her leg. During cross-examination the complainant stated that he is an illiterate person, he has got the complaint written by an advocate, his daughter is a person of low intelligence, his mother is aged about 80 years, she faces difficulty in moving around and her vision is weak. The allegation that the complainant's mother had suffered a fracture could not be

established as the doctor stated that the injury was simple and old. The doctor stated that the injury could have been caused by fall also. The X-ray examination did not establish the allegation of fracture.

9. After examining the aforesaid facts, the learned trial court came to the conclusion that the prosecution could not establish the allegations beyond reasonable doubt and acquitted the accused persons giving them benefit of doubt.

10. Assailing the validity of the aforesaid judgment and order, Smt. Shikha Sinha, the learned AGA-I has submitted that the victim is a person of low intelligence and, therefore, the court should be liberal while scrutinizing her statement and the accused persons should not be acquitted merely on the ground of some discrepancies in her statement.

11. Although, it is correct that an accused person cannot be acquitted merely for some discrepancies in the statements of the prosecution witnesses, still the prosecution has to establish its case beyond doubt. The victim has categorically denied the incident during her cross-examination. In the F.I.R. the complainant stated that his mother is deaf, whereas in his statement he stated that she is suffering from low vision and here he did not state that she is deaf. In the statement the complainant stated that hearing the noises at the time of incident his mother got up and scolded the accused. The accused assaulted the complainant's mother causing a fracture in her leg but this allegation also could not be established.

12. The trial court judgment has been given after a proper and thorough scrutiny of entire prosecution material and the judgment cannot be said to be perverse warranting grant of leave to file an appeal against the judgment. Accordingly, leave application is rejected.

13. As this court has declined to grant leave to the State to file an

appeal, there is no need to issue notice on the application for condonation of delay in filing the appeal.

14. As the application seeking leave to appeal by the State has been rejected, let the appeal be consigned to records.

March 24, 2026

Ram.

(Subhash Vidyarthi,J.)