2025 INSC 579

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. OF 2025
(Arising out of SLP(Crl.) Nos. 12563-12566 of 2022)

X ETC. … APPELLANTS

Versus

RAJESH KUMAR & ORS. … RESPONDENTS

O R D E R

1. Leave granted.

2. This case is a glaring example of denial of justice to the victims of offences under the Protection of Children from Sexual Offences Act, 2012 (for short, `the POCSO Act'), and possibly certain provisions of the Indian Penal Code (for short, `IPC'). The victims were students in a school in Tirur, where respondent No.1 was a Computer Teacher. It was alleged that he behaved inappropriately with the female students of the school besides asking obnoxious questions like how many sanitary napkins they had used in a year. It was alleged that he would hold the hands of the students in the computer lab while using mouse in the lab and do other inappropriate actions. The female students made complaints to the Principal of the school, who directed the Head of the Department to inspect the computer lab where several women's magazines and CDs containing questionable content were recovered. A show-cause notice was issued to respondent No.1, who is stated to have apologized and promised to improve his conduct in future.

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3. Respondent No.1, however, allegedly did not mend his ways

and continued to misbehave with the female students to the extent that he sent vulgar and obscene images on the whatsApp group, thinking that these numbers belong to the students whereas the students had actually given the numbers of their parents. Again complaints were made; the police was called and respondent No.1 was arrested. It seems that respondent No.1 exerted some influence, as the statements of all the victim students were not recorded, except that of a 19 year's old student. The Parents Teachers Association then filed a Writ Petition before the High Court and it was only upon judicial intervention that an FIR was finally registered against respondent No.1. Shockingly, respondent No.1 claimed to have entered into a settlement with the 19 year's old student, and based upon that, he sought quashing of the FIR before the High Court. Meanwhile, the statements of some of the victim students were recorded and based thereupon, five separate FIRs, i.e., FIR Crime Nos. 291, 292, 293, 294 and 295 of 2017, were registered against respondent No.1 on the same day, i.e., 04.04.2017 at Tirur Police Station under Sections 7 and 8 of the POCSO Act. As stated earlier, FIR Crime No.294/2017 was `settled' by respondent No.1 with the victim, who was stated to be 19 years' old student. Respondent No.1, thereafter, approached the High Court seeking quashing of the remaining FIRs and vide the impugned judgment, the High Court has, after holding a mini trial and after taking note of the contents of the statements alleged to have been made by the victims at the preliminary stage, come to a conclusion that "it is not possible to infer or impute that the said act has been done by the petitioner with any sexual intent."

4. All that we wish to observe at this stage is that the High Court ought not to have ignored the fact that respondent No.1 was a teacher and the victims were his students. The preliminary statements recorded before the Police Authorities reveal that *prima facie* ingredients of offences under the POCSO Act, for the purpose of subjecting respondent No.1 to a trial, are made out. We are fail to understand as to how the High Court construed that Section 7 of the POCSO Act will not be attracted unless there is an act involving physical contact with sexual intent. Section 7 of the POCSO Act defines 'sexual assailt' to include situations where a person `with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration'. The allegations that respondent No.1 would hold the hands of female students in the computer lab while using the mouse clearly falls within the ambit of `any other act with sexual intent which involves physical contact'. In the context of a teacher-student relationship, where the teacher is in a position of authority and trust, such physical contact, when accompanied by other inappropriate behavior including asking invasive questions about sanitary napkins and sending vulgar images, provides sufficient basis to infer sexual intent for the purpose of proceeding with trial. The issue has been apparently pre-judged by the High Court without even permitting the victims to enter witness box and depose about various instances, which are briefly noted in their preliminary statements.

5. We refrain from making further observations at this stage as they may prejudice respondent No.1 or anyone else. Regardless thereto, we have no reason to doubt that this was a fit case where respondent No.1 ought to have been subjected to trial by ensuring that the identity of the victims was not revealed, they are treated as protected witnesses and their statements to be recorded at the earliest. This is extremely important keeping in view the fact that respondent No.1 has successfully prevailed upon one of the victims, who allegedly "settled the dispute" and paved the way for respondent No.1 to get one of the cases quashed.

6. It is pertinent to note that well before the impugned judgment of the High Court, the investigation was complete and the chargesheet had been filed and even the statements of some of the victims, under Section 164 Cr.P.C., had already been recorded. Unfortunately, all these aspects were not highlighted before the High Court.

7. For the reasons aforestated, and without going into further details, the impugned judgment of the High Court is set aside, and the Trial Court before whom the chargesheets have been filed, is directed to proceed with the trial. The matter regarding framing of charges shall be concluded within two weeks. The Trial Court is further directed to take up the matter at least twice in a month and first of all record the statements of all the alleged victims.

8. The prosecution will ensure that the victims are treated as protected witnesses. Respondent No.1 shall not be permitted, in any manner, to contact the victims and/or influence them directly

or indirectly.

9. The Management of the M.M.M. Higher Secondary School, Koottayi is directed to keep respondent No.1 under suspension till the conclusion of trial. The Management, however, shall be at liberty to hold domestic enquiry against respondent No.1 in accordance with the prescribed rules independent of the criminal prosecution restored by us. Ordered accordingly.

10. The appeals stand allowed in the above terms.

11. As a result, the pending interlocutory application also stands disposed of.

.....J.
(SURYA KANT)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
APRIL 23, 2025.