

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.287 OF 2025
(Arising out of SLP(Crl.) No.11822 of 2024)

X

...APPELLANT(S)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

...RESPONDENT(S)

J U D G M E N T

1. Leave granted.

2. The appellant - prosecutrix has preferred the present appeal being aggrieved by the impugned order dated 15.05.2024 passed by the High Court of Uttarakhand at Nainital in Criminal Revision No.816 of 2023, arising out of the order dated 11.10.2023, passed by the Special Judge - POCSO Act/District and Sessions Judge, Tehri Garhwal in Misc. Case No.20 of 2023, in connection with Case Crime No.02 of 2023, registered under Sections 376(3), 506 IPC and Section 3/4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), whereby the High Court, while allowing the said Revision, has set aside the order passed by the POCSO Court and remanded the matter back to the Said Court for fresh consideration.

3. We have heard the learned counsel for the parties.

4. Having regard to the submissions and the material on record, it appears that a closure report was sought to

be submitted by the I.O. in connection with the criminal case in question registered against the respondent No.2, which was not accepted by the POCSO Court, by observing in the Order dated 11.10.2023 as under: -

"11. It is noteworthy that in the present case, the victim was 15 years old at the time of the incident. Her statement under Section 164 CrPC also provides a clear description of the incident, and there is no reason to disbelieve it. Merely relying on the statements of other individuals under Section 161 CrPC to file a final report in such a serious case is not justified. As for the investigating officer's statement that there was a land dispute between the parties, it is evident that the dispute arose after the incident. Several individuals have also submitted a complaint letter to the District Magistrate regarding the accused. There is no serious contradiction between the First Information Report and the Victim's statement recorded under Section 164 CrPC. Therefore, at this stage, this court is of the opinion that the final report submitted by the investigating officer is liable to be rejected, and a prima facie case is made out against the accused, Vijaypal, under Sections 376(3), 506 IPC, and Sections 3/4 of the POCSO Act, 2012. Accordingly, the accused, Vijaypal, is liable to be charged under these sections, and the report submitted by the investigating officer against the complainant under Sections 182 IPC and 22 POCSO Act is liable to be rejected."

5. The respondent No.2 being aggrieved by the said Order, preferred a revision being No.816 of 2023 before the High Court, which has been allowed by the High Court by observing as under: -

"17. Delay, per se, may not be a ground to file final report. In Para 10 of the impugned order, the court has made an observation that merely based on some statement of the Driver, etc., the final report has been submitted. It is not so. The final report has been submitted based on multiple factors. In Para 8 of the impugned

order, observations with regard to another SIM of the revisionist has been made.

18. The FIR, in the instant case, is undoubtedly delayed. In between, the parties had a dispute also. Of an alleged incident of 23.06.2022, the FIR was lodged on 23.01.2023.

19. This Court is of the view that instead of taking a decision, the court below could have directed the IO to investigate on certain points and submit a further report. Those points may include:-

(i) Whether the revisionist has any other mobile number? During the course of arguments before this Court, a statement is given by learned counsel for the revisionist that the revisionist had another mobile number at the relevant time. The IO could have very conveniently taken this mobile number and tracked it, and caught its location, at the relevant time.

(ii) The revisionist claims that he was in chardham yatra. Where did he stay? Was he required to sign any document during the chardham yatra? If he was working as a Conductor in his own bus, did he purchase any fuel? Were there any CCTV footages?

20. These and other kind of materials could have been placed for the perusal of the court along with the final report. But it is not done.

21. Therefore, this Court is of the view that the court below has committed an error in straightway rejecting the final report. As stated, the court could have required the IO to further investigate the case on the points, as stated hereinabove, along with some other points, as the court deems necessary. Therefore, the impugned order deserves to be set aside.

22. The impugned order dated 11.10.2023, passed in the case, is set aside. Accordingly, the revision deserves to be allowed.

24. The revision is allowed.

25. The matter is remanded back to the court below to decide the final report, afresh, after affording an opportunity of hearing to the parties."

6. From the bare reading of the impugned order passed by the High Court, it appears that the High Court has

exercised the revisional jurisdiction under Section 397 of Cr.P.C., which normally should have been exercised in a rare case. When the POCSO Court had taken the cognizance of the alleged offence, considering the seriousness and gravity of the offence, in our opinion, the High Court should not have interfered with the same and remanded the matter for fresh investigation. It may also be noted that the High Court has directed as to how the investigation should have been done by the I.O., which, according to us, was absolutely unwarranted in exercise of its limited revisional jurisdiction.

7. In that view of the matter, the present appeal deserves to be allowed and is accordingly allowed. The impugned order passed by the High Court is set aside and the order dated 11.10.2023 passed by the POCSO Court is restored. The case shall be proceeded further before the concerned POCSO Court in accordance with law.

8. The appeal stands allowed accordingly.

9. Pending application(s), if any, shall stand disposed of.

.....J.
(BELA M. TRIVEDI)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
20TH JANUARY, 2025.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).11822/2024

[Arising out of impugned final judgment and order dated 15-05-2024 in CRR No.816/2023 passed by the High Court of Uttarakhand at Nainital]

X

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ANR.

Respondent(s)

Date : 20-01-2025 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) : Mr. Rituparn Uniyal, Adv.
Mr. Abhishek Kumar, Adv.

For Respondent(s) : Ms. Vanshaja Shukla, AOR
Ms. Ankeeta Appanna, Adv.

Mr. Amol Chitravanshi, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. In terms of the signed Judgment, the Criminal Appeal is allowed.
3. Pending application(s), if any, shall stand disposed of.

(RAVI ARORA)
COURT MASTER (SH)

(MAMTA RAWAT)
COURT MASTER (NSH)

(signed Judgment is placed on the file)