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Cri LJ 3893 : (2017) 2 E Cr N 298 : (2017) 2 RCR (Cri) 858

In the High Court of Calcutta  
Criminal Appellate Jurisdiction  
Appellate Side  
(BEFORE JOYMALYA BAGCHI, J.)

Bijoy @ Guddu Das

v.

The State of West Bengal

C.R.A. 663 of 2016 and CRAN 4926 of 2016

Decided on March 2, 2017, [Heard on : 7.2.2017, 15.2.2017, 23.2.2017 &  
2.3.2017]

For the Appellant : Mr. Asimes Goswami  
Ms. Paulomi Banerjee Ms. Priyanka Dutta  
For the State : Mr. Kishore Dutta, Advocate General  
Mr. Saswata Gopal Mukherjee, P.P.  
Mr. Ayan Bose Mr. Saryati Datta

The Judgment of the Court was delivered by

JOYMALYA BAGCHI, J.:— The appeal is directed against the judgment and order dated July 26, 2016 and July 27, 2016 passed by the Learned Additional District & Sessions Judge, 2<sup>nd</sup> Court, Krishanagar, Nadia in Sessions Trial No. II(XII) of 2015 corresponding to Sessions Case No. 04(09) of 2015 convicting the appellant for commission of offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentencing him to suffer rigorous imprisonment for 5 years and to pay a fine of Rs. 5,000/- in default to undergo further rigorous imprisonment for three months more has been assailed.

2. Prosecution case, as alleged, against the appellant is to the effect that on 07.09.2015 at about 6.30 P.M., the mother of the victim asked her to fetch water from the tube well of a nearby school. When she had gone to fetch water, the appellant caught the victim from the rear and dragged her behind the school building and touched her private parts. When the victim raised objection and started screaming, the appellant threatened her for dire consequences and fled away.

3. On the written complaint of the mother of the victim, Taherpur P.S. Case No. 159/15 dated 17.09.2015 under section 8 of the Protection of Children from Sexual Offences Act was registered for investigation. In conclusion of investigation charge-sheet was filed under the aforesaid provision of law. Charge was framed against the appellant and the same was read over and explained to him. He pleaded not guilty and claimed to be tried.

4. In the course of trial, the prosecution examined as many as 17 witnesses to prove its case. The defence of the appellant was one of innocence and false implication. In conclusion of trial, the trial Court convicted and sentenced the appellant, as aforesaid.

5. Ms. Banerjee, learned counsel for the appellant submits that prosecution case has not been proved beyond reasonable doubt. There is no explanation as to why the victim was sent to collect water from the tube well in a nearby school, although evidence has come on record that there is a tube well in their house. There is contradiction in the manner in which the victim was subjected to sexual assault. While

the victim and her parents deposed that the appellant touched her private parts, the medical officer, P.W.7 deposed that the victim stated that she was touched in the thigh and other witnesses deposed that the victim told them that the appellant had pulled her hand. Accordingly, she prayed for acquittal in the instant case.

6. On the other hand, Mr. Bose, learned counsel for the State, submits that the evidence on record is clear and consistent and established the ingredients of the alleged offence. Minor contradictions as to the part of the body of the victim which the appellant had touched would not erode the consistent evidence of the prosecution witnesses that the appellant took away the victim while she was collecting water from the tube well and touched her in an indecent manner. The evidence of the victim and her relations are corroborated by the independent witnesses including the doctor in that regard. Accordingly, he prayed for dismissal of the appeal.

7. P.W.1. is the victim in the instant case. She deposed that she is eleven years of age and is reading in Class VII. The incident took place on 17<sup>th</sup> September, 2015 at about 6.30/7 P.M. when she had gone to fetch water and the appellant asked her for water. After taking water, the appellant started tickling her legs and thereafter he pulled her frock. At that time her brother was also present. The appellant directed her brother to leave the place but her brother refused to do so. Then he gagged her mouth and took her behind the school and threatened her that she would be killed and thereafter touched her vagina over her undergarment. Thereafter he released her. She narrated the incident to her mother. Her mother lodged a written complaint at Taherpur P.S. She was medically treated and she was also stated the incident to the learned Magistrate.

8. In cross-examination, she stated that there was a tube well in her house. They took water from the said tube well. There is distance between the house of the appellant and her house is a 5 minute walk. Her father and that of the appellant are close friends. The good relationship turned bitter after the incident. Prior to the incident they were on visited terms. She denied that she was tutored by her parents.

9. P.W.2, is the mother of the victim. She deposed that the incident took place around 5/6 months ago at about 6/6.30 P.M. She heard the incident from her daughter. At the time her daughter and her son had gone to fetch water and were engaging in pouring water from the tap when the appellant wanted water from her daughter. When her daughter provided water, appellant drank the water and then started tickling her daughter's leg. Thereafter he put off her frock from the rear. At that time her son was present. He gagged her daughter's face and took her behind the school. When she tried to shout, appellant threatened her daughter that she would be killed and thereafter touched her vagina. She went to the police station and as per her dictation one Dilip Sarkar scribed the written complaint. She put her signature thereon (Ext.2).

10. P.W.3, the father of the victim corroborated the evidence of P.W. 1 and 2.

11. P.W. 4, is the brother of the victim. About four months ago the incident took place. At that time he and his elder sister had gone to fetch water from a tap situated near their school. The appellant wanted water from him and her sister provided him water. Then appellant asked him to leave the place and started tickling the leg of his sister. Thereafter his sister was taken behind the school and threatened not to shout. Then he went to call his mother and his sister was discharged from the clutches of the appellant. He identified the appellant.

12. In cross-examination, he told that the tap is situated in the school campus and near the tap the house of Pakhi is situated.

13. P.W.5, Monila Dey, is a neighbor of the victim. She deposed that about 8/9 months at about 5 P.M. the incident occurred under the neem tree situated in their village. There is a tube well near the neem tree. He saw the appellant was standing

near the tube well and heard from the victim that the appellant touched her body and had pulled her wearing apparel. He identified the appellant.

14. P.W.6, is the uncle of the victim. He heard the incident from P.W.1 and 4 and has corroborated their evidence.

15. P.W.7, Sudhir Ranjan Sarkar is the doctor. He examined the victim on 8.9.2015. The victim stated to him that she was taken near the school at 6.30 P.M. by the appellant and the appellant had kept his hand on her thigh. On examination, he found that hymen was intact. He proved the injury report (Ext.3).

16. P.W.8, Ashish Das, received written complaint from P.W.2 and drew up the formal FIR (Ext. 4) after making necessary endorsement there (Ext.2/1).

17. P.W.9, P.W.10, P.W.11, P.W.12 & P.W.13 are the people of the locality. They deposed that the appellant had taken the victim behind the school and touched her body.

18. P.W.14, Swadesh Garai, is the doctor who examined the appellant and found him potent for sexual intercourse. He proved his report (Ext.5).

19. P.W.15, Dilip Sarkar, is the scribe of the first information report. He proved the written complaint (Exht.2/2).

20. P.W.16, A.S.I. Lalita Sarka, recorded the statement of the victim.

21. P.W.17, Prabin Kumar Sarkar, is the investigating officer of the case. He prepared rough sketch may (Ext.6). He recorded the statement of all the witnesses and the statement under Section 161 Cr.P.C. Statement of the victim was recorded before the Magistrate under section 164 Cr.P.C. He arrested the appellant and obtained his potency report (Ext.7). He obtained original birth certificate of the victim and it handed over to P.W.2 on execution of zimmanama (Ext.8). On completion of investigation, he filed charge-sheet.

22. From the aforesaid evidence on record, it is clear that the victim had been accosted by the appellant when she had gone to the tube well to collect water. Tube well was situated near her school which is not far away from her residence. She was accompanied by P.W.4. It has been argued that no reason is forthcoming as to why the victim had gone to the tube well near her school to collect water when there is a tube well in her house.

23. Admittedly, there is a tube well near the school premise and the school premise which is situated at a short distance from the house of the victim and the appellant. The evidence of the victim, P.W.1, that she had gone to the tube well to collect water is not only corroborated by her family members but also by the independent witnesses namely P.Ws. 5 & 9 to 13 herein. In view of the consistent ocular version of the prosecution witnesses that the victim had gone to the nearby tube well to collect water, I am unable to accept the contention of the appellant that the prosecution case ought to be disbelieved merely because there is a tube well in the house of the victim. Hence, the aforesaid issue raised by the appellant to improbabilise the prosecution case appears to be untenable and accordingly fails.

24. An analysis of the evidence of the prosecution witnesses shows that the version of P.W.1 is corroborated not only by her family members namely P.W.2, 3, 4 and 5 but also by the independent witnesses that she had been accosted by the appellant when she had gone to the tube well to collect water and thereafter had been taken behind the school and was indecently touched by the appellant against her will. There is, however, some controversy as to whether the appellant had touched her vagina over her undergarment or any other part of her body.

25. I find that P.W.7, the doctor, deposed that P.W.1 and her mother (P.W.2) had reported that the appellant had touched her thigh. Other witnesses like P.W.5 and 9 to 13 claimed that the victim stated that the appellant had forcibly touched her body.

However, the consistent evidence of P.W.1 and her parents P.W. 2 and 3 is to the effect that the appellant had touched her vagina over her undergarments. It is possible that the victim and her parents out of shame and embarrassment had not indicated to the doctor or the neighbours that the victim was touched in her private parts. However, the consistent evidence of not only the victim and her relations but also of the independent witnesses is to the effect that the victim was accosted by the appellant and her body was touched in an indecent manner against her will. Section 7 of the POCSO Act defines sexual assault as follows:

*"7. Sexual Assault.- Whoever, 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 is said to commit sexual assault."*

26. The scope and ambit of the offence of sexual assault under the aforesaid provision does not only extend to touching of the vagina of the victim but also to the touching of any part of her body with a sexual intent.

27. Judging the prosecution case from this perspective, I am of the opinion any minor variation in the evidence of the witnesses as to which part of the anatomy of the victim was touched would not bring the act of the appellant which was prompted by lascivious instincts beyond the culpable bounds of the aforesaid penal provision. Nor would such variation improbabilise the very genesis of the prosecution case of physical touching of the victim by the appellant with sensual intent which is consistently supported by all the witnesses.

28. Hence, I am of the opinion that the aforesaid evidence on record clearly proves the ingredients of the alleged offence and the conviction of the appellant is accordingly upheld.

29. Coming to the issue of sentence, I find that the appellant aged about nineteen years and does not have any criminal antecedent.

30. In the aforesaid factual matrix, I modify the sentence imposed on the appellant and direct that the appellant shall suffer rigorous imprisonment for three years and shall pay a fine of Rs. 10,000/- in default shall suffer rigorous imprisonment for three months more.

31. Period of detention suffered by the appellant and during investigation, enquiry and trial shall be set off from the substantive sentence imposed upon him in terms of 428 of the Code of Criminal Procedure.

32. I find that the trial Judge has not addressed himself to the issue of grant of compensation to the victim in the instant case. Grant of compensation to a victim in a prosecution under the POCSO Act is adumbrated in section 33(8) of the said Act read with Rule 7 of the Protection of Children from Sexual Offences Rules, 2012 (hereinafter referred to as 'the Rules'). Section 33(8) of the Act reads as follows:—

*"Section 33(8).-- In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child."*

33. Rule 7 of the Rules is as under:—

*Rule 7. Compensation.-- (1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.*

*(2) The Special Court may, on its own or on an application filed by or on*

*behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.*

*(3) Where the Special Court, under sub-section (8) of Section 33 of the Act read with sub-sections (2) and (3) of section 357A of the Code of Criminal Procedure, makes a direction for the award of compensation to the victim, it shall take into account all relevant factors relating to the loss or injury caused to the victim, including the following:—*

- (i) type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;*
- (ii) the expenditure incurred or likely to be incurred on his medical treatment for physical and/or mental health;*
- (iii) loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;*
- (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;*
- (v) the relationship of the child to the offender, if any;*
- (vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;*
- (vii) whether the child became pregnant as a result of the offence;*
- (viii) whether the child contracted a sexually transmitted disease (STD) as a result of the offence;*
- (ix) whether the child contracted human immunodeficiency virus (HIV) as a result of the offence;*
- (x) any disability suffered by the child as a result of the offence;*
- (xi) financial condition of the child against whom the offence has been committed so as to determine his need for rehabilitation;*
- (xii) any other factor that the Special Court may consider to be relevant.*

*(4) The compensation awarded by the Special Court is to be paid by the State Government from the Victims Compensation Fund or other scheme or fund established by it for the purposes of compensating and rehabilitating victims under section 357A of the Code of Criminal Procedure or any other laws for the time being in force, or, where such fund or scheme does not exist, by the State Government.*

*(5) The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.*

*(6) Nothing in these rules shall prevent a child or his parent or guardian or any other person in whom the child has trust and confidence from submitting an application for seeking relief under any other rules or scheme of the Central Government or State Government."*

34. Compensation envisaged under the aforesaid provision of law may be awarded by the Special Court at the interim stage also for immediate relief and rehabilitation of a child victim in light of the parameters laid down under Sub-Rule (3) of Rule 7 of the aforesaid Rules. Such compensation payable by the State is independent of the compensation which may be directed to be paid by the convict upon conviction in terms of Section 357(2) and (3) of the Code. The philosophy of awarding compensation by the State is in the nature of a reparation to the victim of crime on its



failure to discharge its sovereign duty to protect and preserve sanctity and safety of the individual from the ravages of such crime. I am informed that a Victim Compensation Fund has been notified by the State under Section 357A Cr.P.C., which, inter alia, prescribes the minimum amount of compensation that may be awarded for various offences/injuries in the following manner as set in the schedule of the notifications:—

Schedule

Sl. No.	Description of Injuries/Loss	Minimum Amount of Compensation
1.	Acid Attack	Rs. 3 lakhs
2.	Rape	Rs. 3 lakhs
3.	Physical abuse of minor	Rs. 2 lakhs
4.	Rehabilitation of victim of Human Trafficking or other offences like witch hunting etc.	Rs. 1 lakh
5.	Sexual assault (Excluding rape)	Rs. 50,000/-
6.	Death	Rs. 2 lakhs
7.	Permanent Disability (80% or more)	Rs. 2 lakhs
8.	Partial Disability (40% to 80%)	Rs. 1 lakh
9.	Burns affecting greater than 25% of the body (excluding Acid Attack cases)	Rs. 2 lakhs
10.	Loss of foetus	Rs. 50,000/-
11.	Loss of fertility	Rs. 1.5 lakhs

*Note : If the victim is less than 14 years of age, the compensation shall be increased by 50% over the amount specified above.*

35. The aforesaid scheme is, therefore, lays down the minimum limit for award of compensation in cases of offences relating to rape, sexual assault (excluding rape), physical abuse of minor etc. It also provides for a hike of 50% of the amount of compensation if the victim is below 14 years of age. Although offences under POCSO are not specifically mentioned in the Schedule, the cognate nature of offences of penetrative sexual assault or aggravated penetrative sexual assault punishable under Sections 4 & 6 of POCSO when compared with rape and that of sexual assault with sections 6 & 8 of POCSO, prompts me to hold that the duty of the State to award compensation to victims under the aforesaid Fund would extend to such offences also. The Special Court, therefore, while dealing with such offences may make orders of interim or final compensation to victim from the Fund made available by the State. It is further clarified that a conjoint reading of the Section 33(8) of the Act along with Rule 7 of the Rules made it amply clear that the power of the Special Court to award interim/final compensation is not restricted to the terms of the Victim Compensation Fund promulgated by the State but empowers the Court to award such reasonable and just amount as may be determined by it in the facts of the case in the light of the parameters laid down in Rule 7(3) of the aforesaid Rules to provide succour to a child victim. Upon orders being passed by the Special Court relating to such compensation the State Government shall pay the compensation so ordered by the Special Court within 30 days of the receipt of the order by itself or through the State Legal Services

Authority or the District Legal Services Authority in whose hands the Victim Compensation Fund may be entrusted. It is also made clear that it shall be open to the Special Court in appropriate cases to grant compensation over and above the limit proposed under the scheme inasmuch as the scheme merely lays down the minimum limits of such compensation and does not provide for an upper limit which is left open to the judicial discretion of the Court to be determined in the light of the parameters laid down in Rule 7(3) of the aforesaid Rules.

36. In view of the aforesaid discussion and in the factual backdrop of the case particularly the nature and extent of injury and trauma caused to the victim by the sexual assault perpetrated upon her and her age, that is, 11 years, I award compensation to the tune of Rs. 75,000/- to the victim which shall be payable by the State through the State Legal Services Authority to the parents of the victim, that is, P.W.2 and 3, for the mental and physical trauma suffered by her due to the crime committed on her within one month from date.

37. I also notice with utmost displeasure that the identity of the victim has been disclosed in the judgment delivered by the trial Judge. The scheme of the Act, inter alia, lays down adequate safeguards to ensure that the identity of a victim is not disclosed during investigation or trial. The privacy of child victim has been sought to be protected in the course of investigation and trial of cases under the various provisions of the Act. Section 23 of the Act lays down an embargo on any report or comment made or photograph published in any media disclosing the identity of the child including his/her name, address, photograph, family details, school, neighbourhood or any other particulars in relation thereto. Contravention of the said provision is made punishable under subsection (4) thereof. Section 24(5) of the Act, inter alia, provides that police officer shall ensure that the identity of the victim shall be protected from public media. Section 33(7) enjoins the Special Court to ensure that the identity of the child is not disclosed at any time during the course of investigation or trial unless for reasons recorded in writing the Court permits such disclosure in the interest of the child. For the purpose of the said section, identity of the child is defined to include "the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed." Section 36 of the said Act permits the child to give evidence in such manner that he or she is not exposed to the accused at the time of recording evidence and permits such child to record statement through video conferencing or by utilizing single visibility mirror or curtain to achieve such purpose. Section 37 of the Act mandates that trial in cases under the Act shall be held in camera in the presence of the parents of the child or any other person in whom the child has trust or confidence. Evidence of the child may also be recorded by way of commission under section 284 of the Code of Criminal Procedure, if necessary. The aforesaid provisions, therefore, make it clear that the functionaries under the Act, namely, the investigating agency, the prosecutors and the court must take appropriate measures to ensure that the identity of the child is not disclosed to his/her prejudice in the course of investigation and trial. Trial of a case concludes by delivery of judgment, hence, disclosure of identity of child in the judgment delivered by the Special Court would amount to breach of the aforesaid statutory mandate. It is apposite to note that while dealing with similar provisions in the Code, namely, section 327(2) & (3) of the Code read with section 228A of the Penal Code, 1860, the Apex Court in the cases of *State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384 and *Dinesh @ Buddha v. State of Rajasthan*, (2006) 3 SCC 771, declared that the name of the victim in rape cases should not be indicated by the trial Court or the superior Courts. In *Sakshi v. Union of India*, (2004) 5 SCC 518, safeguards were laid down with regard to trial in cases of child sexual abuse and the privacy safeguards were ever extended to cases under section 354 and 377 I.P.C. In *Sakshi* (supra) the Court laid down the following safeguards in child sex abuse cases:—

*“(1) The provisions of sub-section (2) of Section 327 CrPC shall, in addition to the offences mentioned in the sub-section, also apply in inquiry or trial of offences under Sections 354 and 377 IPC.*

*(2) In holding trial of child sex abuse or rape:*

*(i) a screen or some such arrangements may be made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused;*

*(ii) the questions put in cross-examination on behalf of the accused, insofar as they relate directly to the incident, should be given in writing to the presiding officer of the court who may put them to the victim or witnesses in a language which is clear and is not embarrassing;*

*(iii) the victim of child abuse or rape, while giving testimony in court, should be allowed sufficient breaks as and when required.”*

38. The judicial dicta in the aforesaid reports appear to have received statutory recognition in the present legislation under the aforesaid provisions of the said Act.

39. The aforesaid legislative mandate as interpreted by judicial pronouncements create a humanizing impact on the adversarial trial processes in child sex abuse cases and make it imperative that the privacy and other basic human rights of the child victim are scrupulously protected so as to achieve the goal of access to justice to the most vulnerable section of society, namely, children subjected to sexual abuse, in the truest sense.

40. The following directives are issued to the investigating agencies, prosecutors and the Special Courts so that the aforesaid provisions of law are followed in letter and spirit and fundamental right of dignity of a child victim and other basic human rights are preserved:—

1. Police Officer or the Special Juvenile Police Unit receiving complaint as to commission or likelihood of commission of offence under the Act shall forthwith register the same in terms of Section 19 of the Act and furnish a copy free of cost to the child and/or his/her parents and inform the child or his/her parents or any person in whom the child has trust and confidence of his/her right to legal aid and representation and if the child is unable to arrange for his/her legal representation, refer the child to the District Legal Services Authority for necessary legal aid/representation under section 40 of the Act. Failure to register First Information Report in respect of offences punishable under sections 4, 6, 7, 10 & 12 of POCSO shall attract penal liability under section 166-B of the Penal Code, 1860 as the aforesaid offences are cognate and/or *pari materia* to the Penal Code offences referred to in the said penal provision.
2. The Police Officer on registration of FIR shall promptly forward the child for immediate emergency medical aid, whenever necessary, and/or for medical examination under section 27 of the Act and ensure recording of the victim's statement before Magistrate under Section 25 of the Act. In the event, the Police Officer or the Special Juvenile Police Unit is of the opinion that the child falls within the definition of “child in need care and protection” as defined under Section 2(d) of the Juvenile Justice (Care and Protection of Children) Act, 2000, the said Police Officer or the Special Juvenile Police Unit shall forthwith forward the child to the jurisdictional Child Welfare Committee for providing care, protection, treatment and rehabilitation of the child in accordance with law.
3. Whenever a registration of FIR is reported to the Special Court, the Special Court shall make due enquiries from the investigating agency as to compliance of the aforesaid requirements of law as stated in (1) and (2) above and pass necessary orders to ensure compliance thereof in accordance with law, if necessary.



4. Officer-in-Charge of the police station and the investigating officer in the case including the Special Juvenile Police Unit shall ensure that the identity of the victim is not disclosed in the course of investigation, particularly at the time of recording statement of the victim under section 24 of the Act (which as far as practicable may be done at the residence or a place of choice of the victim or that of his/her parents/custodian, as the case may be), his/her examination before Magistrate under section 25 of the Act, forwarding of the child for emergency medical aid under section 19(5) and/or medical examination under section 27 of the Act.
5. The investigating agency shall not disclose the identity of the victim in any media and shall ensure that such identity is not disclosed in any manner whatsoever except the express permission of the Special Court in the interest of justice. Any person including a police officer committing breach of the aforesaid requirement of law shall be prosecuted in terms of section 23(4) of the said Act.
6. Trial of the case shall be held in camera in terms of section 37 of the Act and evidence of the victim shall be promptly recorded without unnecessary delay and following the procedure of screening the victim from the accused person as provided in section 36 of the Act. The evidence of the victim shall be recorded by the Court in a child friendly atmosphere in the presence of the parents, guardian or any other person in whom the child has trust and confidence by giving frequent breaks and the Special Court shall not permit any repetitive, aggressive or harassing questioning of the child particularly as to his/her character assassination which may impair the dignity of the child during such examination. In appropriate cases, the Special Court may call upon the defence to submit its questions relating to the incident during cross-examination in writing to the Court and the latter shall put such questions to the victim in a language which is comprehensible to the victim and in a decent and non-offensive manner.
7. In the event, the victim is abroad or is staying at a far off place or due to supervening circumstances is unable to physically attend the Court to record evidence, resort shall be taken for recording his/her evidence by way of video conference.
8. The identity of the victim particularly his/her name, parentage, address or any other particulars that may reveal such identity shall not be disclosed in the judgment delivered by the Special Court unless such disclosure of identity is in the interest of the child.
9. The Special Court upon receipt of information as to commission of any offence under the Act by registration of FIR shall on his own or on the application of the victim make enquiry as to the immediate needs of the child for relief or rehabilitation and upon giving an opportunity of hearing to the State and other affected parties including the victim pass appropriate order for interim compensation and/or rehabilitation of the child. In conclusion of proceeding, whether the accused is convicted or not, or in cases where the accused has not been traced or had absconded, the Special Court being satisfied that the victim had suffered loss or injury due to commission of the offence shall award just and reasonable compensation in favour of the victim. The quantum of the compensation shall be fixed taking into consideration the loss and injury suffered by the victim and other related factors as laid down in Rule 7(3) of the Protection of Children from Sexual Offences Rules, 2012 and shall not be restricted to the minimum amounts prescribed in the Victim Compensation Fund. The interim/final compensation shall be paid either from the Victim Compensation Fund or any other special scheme/fund established under section 357A of the Code or any other law for the time being in force through the State Legal

Services Authorities on the District Services Authority in whose hands the Fund is entrusted. If the Court declines to pass interim or final compensation in the instant case it shall record its reasons for not doing so. The interim compensation, so paid, shall be adjusted with final compensation, if any, awarded by the Special Court in conclusion of trial in terms of section 33(8) of the Act.

10. The Special Court shall ensure that the trial in cases under POCSO is not unduly protracted and shall take all measures to conclude the trial as expeditiously as possible preferably within a year from taking cognizance of the offence without granting unreasonable adjournment to the parties in terms of section 35(2) of the Act.

41. Concerned Legal Services Authority shall ensure that the interim/final compensations are paid to the victim from the Victim Compensation Fund or any other scheme/fund established under section 357A Cr.P.C. or the State government, as the case may be.

42. Registrar General is directed to circulate a copy of the judgment to all Special Courts in the State of West Bengal for necessary implementation of aforesaid directions.

43. Secretary, State Legal Services Authority shall sent copies of this judgment to the State Commission for Protection of Child Rights (SCPCR) and all the District Legal Services Authorities for implementation of the aforesaid directions and/or ensuring public awareness amongst the victims for effective access to justice under the Act and the Rules framed thereunder.

44. Department is directed to send a copy of the judgment to Director General of Police, West Bengal, for circulation to all the police stations, Special Juvenile Police Units and other investigating agencies for due implementation of the aforesaid directions.

45. Copy of the judgment along with LCR be sent down to the trial court at once for necessary awareness and sensitization of the sentence in accordance with law.

46. The appeal is accordingly disposed of and the application being CRAN 4926 of 2016 is dismissed as infructuous.

47. Certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.