IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1928 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA sd/-
and
HONOURABLE MR. JUSTICE R. T. VACHHANI sd/-

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Approved for Reporting	Yes	No
		no

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BESRAJI MAHADEVJI MEGHVAL
Versus
STATE OF GUJARAT & ORS.

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Appearance:
MR KALPESH N SHASTRI(1739) for the Appellant(s) No. 1
MR ROHAN H RAVAL ADDITIONAL PUBLIC PROSECUTOR for the Opponent(s)/Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 12/10/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. Being aggrieved and dissatisfied against the judgment and order dated 25.03.2026 passed by the learned 2nd Additional Sessions Judge & Special Judge (POCSO), at Gandhinagar in Spl. POCSO Case No.6 of 2022, whereby the learned Sessions Judge acquitted the accused for the offences punishable under Sections 363, 366 and 376(2)(n) of the Indian Penal Code (for short, 'I.P.C.') and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act (for short, 'POCSO Act'),

2012, by extending the benefit of doubt, the present appeal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita (for short, 'BNSS'), 2023 has been preferred by the appellant herein.

2. For brevity and convenience, parties are referred to as per their original status before the learned Sessions Court.

2.1 Brief facts of the case are as under:

3. The minor victim aged about 17 years and 9 months (date of birth 10.02.2004), daughter of the complainant, was allegedly enticed and lured by the respondent-accused Dinesh Bhutaram Meghwal. It is alleged that, on 08.11.2021 between 10:00 P.M. to 06:00 A.M. on 09.11.2021, the accused abducted the victim from the lawful guardianship of the complainant and took her to Koli Faliyu, Pinjra Village, Ta. Gandevi, Dist. Navsari and against the will and consent of the victim, repeatedly committed penetrative sexual assault on her, as a result, she was made pregnant. In such circumstances, on 10.11.2021, the father of the victim lodged an FIR with Infocity Police Station, being Ist C.R. No.11216011210308 of 2021. Upon registration of the offence, the I.O. proceeded to investigate the case. During the investigation, the I.O. had arrested the accused, sent both the accused and victim for medical examination, recorded the statement of the victim, drew the Panchnama of the place of incident in presence of the panch witnesses, recovered the clothes of the accused and the victim by drawing panchnama, recorded the statements of the witnesses under Section 161 of Cr.P.C. (Section 180 BNSS), and sent the victim before the Magistrate for recording her statement under Section 164 of

Cr.P.C. (Section 183 BNSS). On receiving the report from the FSL, the charge-sheet was filed on 03.02.2022. At the end, the accused came to be charge-sheeted for the offences as referred above. The accused pleaded not guilty and claimed to be tried. Upon conclusion of the trial, the learned Sessions Court, by the impugned judgment and order dated 25.03.2026, acquitted the accused for the offences punishable under Sections 363, 366 and 376(2)(n) of the I.P.C. and under Sections 4 and 6 of the POCSO Act.

3.1 Being aggrieved, the appellant has preferred the present appeal.

4. Submissions made on behalf of the appellant are as under:

4.1 It is submitted that the findings of acquittal are contrary to law and evidence on record and the findings recorded are palpably erroneous and based on the irrelevant material. It is submitted that the learned Sessions Court failed to appreciate that, the victim was below 18 years of age at the time of incident, as the complainant (Exh.14), her father, has stated that she was aged about 17 years, and that she was missing for about one month and that, on inquiry, it was found that she was abducted from his lawful custody by the respondent-accused. It is submitted that, the complainant was cross-examined at length, but nothing was brought on record to shake his credibility and there is no reason to disbelieve his evidence on the minor age of the victim and on her abduction by the respondent-accused.

4.2 It has further been submitted that, the victim (Exh.22) has categorically stated that the accused lured her, gave her a mobile

phone and took her away from the lawful custody of her father on the promise of marriage. It is submitted that, the accused demanded sexual intercourse, which she denied, but he kept insisting by giving a false promise of marriage and repeatedly committed sexual intercourse with her against her will and desire. It is submitted that, it is settled law that the evidence of a minor victim does not require corroboration from other evidence, yet the version of the victim is corroborated by the evidence of the doctor (Exh.49), an independent and expert witness, who has stated that the victim was pregnant, of six months, at the time of medical examination at Civil Hospital, Gandhinagar, which proves the factum of sexual intercourse.

4.3 It has also been submitted that, the victim being below 18 years of age, her consent, if any, is no consent in eye of law, and that the repeated sexual intercourse with a minor is penetrative sexual assault and aggravated penetrative sexual assault punishable under Sections 4 and 6 of the POCSO Act. It is submitted that, on the above evidence of the complainant, the victim and the medical expert, the offences punishable under Sections 363, 366 and 376(2)(n) of the I.P.C. and Sections 4 and 6 of the POCSO Act stand proved against the accused and the Trial Court has no justification for discarding such evidence. Therefore, it is submitted to allow the present appeal.

5. We have heard learned Counsel appearing for the appellant, at the stage of admission, and carefully perused the oral as well as documentary evidence adduced before the learned Sessions Court.

6. In the facts of the present case, the learned Sessions Court

has not believed the case of prosecution that, on the day of incident, the victim was minor. The birth date of the victim was 10.02.2004. The witness (PW.7) Sonalben Amrutbhai Patel being an Incharge Principal of Dholakuva Government Primary School on 10.01.2022, has produced the extract of school register (Exh.35) and birth certificate (Exh.36). The witness in her deposition, has admitted that there is no mention in the General Register on the basis of which document the victim was given admission in the school and that the separate file maintained for the same was not produced. The mother of the victim (PW.2) has stated that the victim was born at Sanchor Village, Dist. Zalor, Rajasthan, whereas the school records show the place of birth as Dholakuva, Gandhinagar and the persons who made the entry and issued the certificate have not been examined. In the aforesaid context and evidence on record, the learned Sessions Court on the aspect of age, has observed that the prosecution has tried to prove that victim was minor, but what was the source of it and how the date came to be recorded with the school authority, has not been proved and therefore, it is held by the learned Sessions Court that the prosecution miserably failed to prove that the victim was minor at the time of incident. Therefore, the view taken by the learned Sessions Court on the aspect of age is a reasonable and possible view and we do not find any reason to interfere with the same.

7. We now proceed to examine the charge of rape and penetrative sexual assault alleged to have been committed by the respondent-accused upon the victim. Upon close scrutiny of the evidence of victim (PW.3), since 09.11.2021 to 29.12.2021, she

was in the company of the accused. She stayed at Pinjra Village, Navsari in the room provided by PW.13 Tarunbhai, where both lived together under the same roof for more than one month. The victim admitted that she willingly went with the accused on 09.11.2021 and that the accused never pressurized her. She had a mobile phone with her, but she did not contact her parents or anyone else during the entire period. The victim did not support to the case of prosecution in her statement before the Magistrate under Section 164 of Cr.P.C., wherein she stated that she went with the accused on her own will, and while narrating the history before the medical officer, she stated that the accused had not done against her will. In such circumstances, when the age of the victim has not been proved, then, she is presumed to be an adult person and having regard to the conduct of the victim, as discussed, it seems that she is the consenting party and relationship during the stay at Pinjra Village, Navsari was consensual in nature. Thus, the version of the victim that, she was enticed and abducted by the accused and against her wish and will, the accused committed rape upon her and also an act of penetrative assault is not believable and does not inspire confidence.

8. Recently, in ***Birka Shiva Vs. State of Telangana, (2025 INSC 863),*** the Supreme Court, has set aside a conviction for rape, kidnapping and wrongful confinement. In the cited case, the accused was having sexual intercourse with the victim against her will and wish. The victim was minor at the time of incident. Prosecution relied on school records. The trial Court relying on the date of birth mentioned in the school leaving

certificate held that the victim was minor and relying on her testimony, the accused came to be convicted. On Appeal, the High Court of Telangana, upheld the conviction of the accused. The Supreme Court, while over-tuning the conviction, ruled that, a school certificate or birth record, alone does not prove a victim's age. The evidentiary value of such an entry made in public or official register may be admissible in evidence under Section 35 of the Indian Evidence Act, however, admissibility is distinct from probative value. While such documents may be admitted in evidence, their evidentiary weight depends on proof of their authenticity and the source of the underlying information. Mere a production and marking of documents as exhibited by the Court, does not amount to proof of its contents. It's execution has to be proved by leading substantive evidence, that is, by the evidence of those persons, who can vouchsafe for Hereinafter referred to as the Evidence Act, truth of the facts in issue. The Supreme Court, while laying down the aforesaid principle, has relied on its earlier judgments (Narbada Devi Gupta Vs. Narendrakumar Jaiswal, Biradmal Singhvi Vs. Anandmal Purohit (1988 SC 1796), State of Chhatisgarh Vs. Lekh Ram).

9. We would like to place on record the scope of interference in an appeal against the acquittal and when the same is justified. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the judgment of acquittal. The Appellate Court should bear in mind the presence of innocence of the accused and further that, the trial Court's

acquittal bolsters the presumption of his innocence. Interference in a routine manner, where the other view of possible should be avoided, unless there are reasons for interference, as the same has been laid down by the Hon'ble Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***.

10. In the result, on considering the evidence on record, the learned Sessions court was justified in arriving at the correct conclusion that prosecution has failed to prove the charge against the accused beyond reasonable doubt. The findings of the acquittal are based on proper appreciation of the evidence on record and do not suffer from any perversity warranting interference by us.

11. In view of the foregoing, the appeal *sans merit* and deserves to be dismissed and accordingly, it is ***dismissed***.

12. The impugned judgment and order dated 25.03.2026 passed by the learned 2nd Additional Sessions Judge & Special Judge (POCSO), at Gandhinagar in Spl. POCSO Case No.6 of 2022 stands confirmed.

13. Record and proceeding, if any, be remitted to the concerned Court.

sd/-
(ILESH J. VORA,J)

sd/-
(R. T. VACHHANI, J)

PARMAR KRISH/11

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PARMAR KRISH(HC02348), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 12/10/2026 16:39:02