



REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2125 OF 2025
(Arising out of S.L.P.(Criminal) No.824 of 2023)

S.C. NARANG ... APPELLANT(S)

VS.

STATE (NCT OF DELHI) & ANR. ... RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

Leave granted.

2. This appeal arises out of a very unfortunate incident. A four year old child was studying in the nursery class at Maxfort School, Dwarka, New Delhi. The alleged incident occurred on 17th November 2017. The girl child complained of pain in her private parts, and upon enquiry from the child, it was learnt that one of her classmates had allegedly sexually assaulted her. Therefore, a First Information Report was registered under Section 376 of the Indian Penal Code, 1860 and Section 21 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The police,

after investigation, filed a charge sheet. Two protest petitions were filed by the complainant (second respondent, mother of the victim child).

3. We may note here that since the prime accused was less than 7 years of age, the police filed a charge-sheet only under Section 21 of the POCSO Act read with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short "the JJ Act"). The charge sheet was filed against four persons: the Principal of the School, two teachers, and the Vice-Chairman/officiating Chairman of the Managing Committee, which runs the school. The present appellant is the Chairman of the Managing Committee. On the basis of the second protest petition, the learned Special Judge issued a summons to the appellant. The present appellant challenged the order by filing a Revision Application, which was dismissed by the High Court by the impugned order.

4. The Special Court firstly observed that the appellant being the Chairman was responsible for implementation of the Guidelines issued by the Directorate of Education on 15th September, 2017 which made it mandatory to install sufficient number of CCTV

cameras in the school premises so as to mandatorily cover all class rooms, labs, corridor, parking, library, areas outside wash rooms etc. The Special Court found fault with the appellant on the ground that the CCTV cameras were not installed in accordance with the Guidelines, and therefore, negligence was attributed to the appellant.

5. The learned senior counsel appearing for the appellant has invited our attention to Section 75 of the JJ Act. He submitted that even taking the case of the prosecution as correct, it cannot be said that the appellant had the actual charge or control over the victim child. He submitted that the incident occurred within a few days of the Guidelines dated 15th September, 2017. Therefore, when the incident occurred, the CCTV cameras were not installed, which was done subsequently. He pointed out that the Principal of the school, two teachers and the Vice-Chairman have already been shown as accused for the offence punishable under Section 75 of the JJ Act.

6. We also heard the learned Additional Solicitor General, who appeared for the respondent-State. The learned counsel appearing for the second respondent submitted that, as the Chairman of the institution

running the school, the appellant is fully responsible for taking care of the children enrolled in the school. As the Chairman, the appellant had full control over the school, and that is how Section 75 of the JJ Act applies. He submitted that the appellant is morally responsible for ensuring that such an incident does not happen in the school.

7. Section 75 of the JJ Act reads thus:

"Section 75: Punishment for cruelty to Child:-
Whoever, having the actual charge of, or control
over, a child, assaults, abandons, abuses,
exposes or willfully neglects the child or causes
or procures the child to be assaulted, abandoned
abused, exposed or neglected in a manner likely
to cause such child unnecessary mental or
physical suffering, shall be punishable with
imprisonment for a term which may extend to three
years or with fine of one lakh rupees or with
both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases:

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees:

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees."

(Underlines supplied)

8. On a plain reading of the first part of Section 75 of the JJ Act, a person who can be punished for cruelty to a child must be shown to have either the actual charge of the child or control over the child. The reference to the child in Section 75 is to the victim of the offence. The appellant was the Chairman of the Managing Committee, which runs a school which has classes from KG to 12th standard. Therefore, it is impossible to even allege that the appellant, being Chairman of the Managing

Committee, had the actual charge of all the children studying in the school run by the institution. It cannot be said that he had control over all the children in the School. He may have control over the management of the institution which runs the School. That does not give him control over every child studying in the school. While considering the applicability of Section 75 of the JJ Act, we are not concerned with the moral responsibility of the school's management. Assuming that the appellant was morally responsible, Section 75 of the JJ Act cannot be applied unless it is shown that the appellant had the actual charge of the victim child or control over the victim child.

9. Therefore, taking the case made out by the State as well as the second respondent as correct, by no stretch of imagination, Section 75 of the JJ Act could have been applied against the appellant. Therefore, the impugned order dated 24th December, 2020, passed by the Special Court, as well as the impugned order dated 18th November, 2022, passed by the High Court, are hereby set aside.

10. We, however, make it clear that the observations and the findings recorded herein are only for the purposes of examining the case of the appellant. What is

held in this order will have no bearing on the pending case before the Special Court, and all questions in that regard are left open.

11. The appeal is accordingly allowed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
April 22, 2025