



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 62 of 2026

Arvind

.....Appellant(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s) : Deshraj Singh
Counsel for Respondent(s) : G.A.

Court No. - 43

**HON'BLE SALIL KUMAR RAI, J.
HON'BLE DR. AJAY KUMAR-II, J.**

1. The present appeal has been filed by the appellant against the impugned judgment and order of acquittal dated 22.12.2025 passed by Special Judge (POCSO Act)/ Additional District and Session Judge, Sambhal at Chandausi in S.S.T. No.167 of 2025, arising out of Case Crime No.69 of 2025, registered under Section 137(2), 65(2), 62 BNSS and Section 5M/18 POCSO Act, Police Station Raysatti, District Sambhal.

2. The appeal was heard as a fresh case, wherein this Court noticed that there was nothing in the judgment of the trial Court to show that the trial Court had satisfied itself regarding the capacity of the victim to understand things/events and had the ability to distinguish between right and wrong, so as to honestly and correctly answer the questions put to her. There is nothing in the judgment of the trial Court to show that any certificate to that effect was issued by the trial Court.

3. In the circumstances, an explanation was called from the concerned judge who conducted the trial in the case and delivered the judgment.

4. In his explanation submitted today, the Additional District Judge/ Special Judge (POCSO Act) Sambhal at Chandausi has stated that the trial Court had examined the victim regarding her ability to distinguish between right and wrong and to answer the questions honestly and correctly, but due to excess of work, the said fact could not be referred in the judgment of the trial Court. It has been stated in the explanation that the statement of the witnesses has been typed on his dictation by the reader of the Court, but the reader without any willful conduct omits to record the certificate as required. The

explanation does not satisfy us.

5. We are not able to appreciate that the trial Court signed the judgment without even looking into all the contents of the judgment and left it to the discretion of the reader/typist. We also take note of the fact that the case was under the POCSO Act and the trial Court was expected to be more sensitive on the issue. However, at this stage, we refrain from making any observation on the aforesaid, more than we have noted before.

6. The appeal is admitted for hearing.

7. The opposite parties No.1,2 and 3 have prior notice of the case.

8. Issue notice to respondent No.4.

9. Summon the trial Court records.

10. Office to prepare the paper book.

11. The whole exercise shall be completed within three months from today.

12. List this case for final hearing in the second week of July, 2026.

February 26, 2026

Ashish/-

(Dr. Ajay Kumar-II,J.) (Salil Kumar Rai,J.)