Email No. 1029, Date. 25.03.2026

Through Email

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From,

Manjeet Singh Sheoran, H.J.S
Registrar General
High Court of Judicature at
Allahabad

To,

All the District and Sessions Judges/OSD
All the Principal Judges, Family Courts
All the Presiding Officers of Commercial Courts, MACTs & LARRAs
State of Uttar Pradesh

No. 3681 **/Admin. G-II/Allahabad** **Dated:** 24/03/ **2026**

Sub: Compliance of Judgment/ Order dated **18.09.2025** passed by this Hon'ble Court in **Criminal Revision No. 5484 of 2024, Informant V/s State of U.P. and Another.**

Madam/Sir,

During the course of hearing, Hon'ble Court has referred to the **Section-26** of the **POCSO Act** which mandates that the Magistrate or the police officer shall record the statement as spoken by the child in the presence of parents of the Child or any other person in whom the child has trust or confidence.

The Hon'ble Court has held that:-

"..... not only the Judicial Officers, but also the police officers / officials should also be sensitive towards the crime against women and children and therefore it goes without saying that while recording the statement of the victim under POCSO Act or dealing with crime against children, judicial officer have to be careful, attentive, sensible, fair and impartial, so that the truth prevails and the culprit be punished for commission of crime against children."

In this regard, while enclosing herewith a **pdf copy** of aforesaid/Order dated **18.09.2025** passed by the Hon'ble Court, I am directed to request you to circulate the same amongst all the Judicial Officers working under your kind supervision and Administrative control in your judgeship for **information and strict compliance.**

With Regards,

Encl:- As above

Yours faithfully,

23.3.26

Registrar General

No. **/Admin. G-II/Allahabad** **Dated:** **2026**

Copy forwarded to the **Director, Judicial Training & Research Institute, Lucknow** for information.

Registrar General

Seen. Circulate amongst all the Judicial officers and copy be send to concerned court for strict compliance and put up in Monthly Monitoring Cell Meeting and upload on Court Website,

ED-J-LKO
25-03-26

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2025:AHC:171796

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5484 of 2024

Informant .....Revisionist(s)

Versus

State of U.P. and Another .....Opposite Party(s)

Counsel for Revisionist(s)	:	Atul Kumar Tiwari
Counsel for Opposite Party(s)	:	G.A., Paritosh Sukla

Court No. - 93

HON'BLE HARVIR SINGH, J.

1. Heard learned counsel for the revisionist and learned counsel for opposite party no. 2 and learned AGA for the State.

2. This revision has been filed against the order dated 30.7.2024 passed by Additional Sessions Judge / Special Judge, POCSO Act, Hapur by which the protest petition dated 4.5.2024 moved by the informant in Case Crime No. 609 of 2023; Sheela Devi Versus Vijendra Kumar, under Sections-294, 354, 376 (3), 506 IPC and Section 5-L / 6 of POCSO Act, P. S.-Hapur Nagar, district-Hapur, has been dismissed and final report No. 170 of 2023, dated 16.10.2023 has been accepted and the same stands made out in the case crime.

3. Learned counsel for the revisionist submits that the Additional Sessions Judge / Special Judge, POCSO Act, Hapur, while passing the said order dated 30.7.2024 ignored the fact that offence under Sections 294, 354, 376 (3), 506 IPC and Sections 5-L/6 of POCSO Act has been committed by opposite party no. 2.

4. Learned counsel for revisionist submits that, though the statements of the witnesses recorded under Section 161 CrPC and statement of victim recorded under Section 164 CrPC are subject to trial and merely on the basis of the statement of the victim recorded under Section 164 CrPC, final report cannot be accepted and besides having sufficient material on record, protest petition filed by the revisionist has been rejected.

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5. Learned counsel for revisionist submits that as per the medical report, which is on record, the concerned doctor has opined the commission of offence of rape, which is also the subject matter of trial. Learned counsel for the revisionist further submitted that the order dated 25.8.2023 was passed by the Child Welfare Committee, Hapur, directing to handover the victim to her mother, since the father of the victim has already died. However, the victim was handed over on 29.9.2023 to the mother of the victim.

6. Learned counsel for the revisionist submitted that in the meantime the statement of the victim recorded under Section 164 CrPC was recorded on 28.8.2023, meaning thereby the victim was handed over to her mother about one month after recording the statement of the victim under Section 164 CrPC. Learned counsel has also objected that the statement of the victim was recorded under Section 164 CrPC in violation of the provisions of Section 26 of POCSO Act, for the reason that the aforesaid statement has been recorded in the absence of her parents, particularly mother or brother, as father of the victim has already passed away and submitted that the statement of the victim has been recorded under pressure and by tutoring her to the extent.

7. On the other hand, learned counsel for opposite party no. 2 has submitted that the order passed by Additional Sessions Judge / Special Judge, POCSO Act is in accordance with law and is based on the statement of the victim recorded under Section 164 CrPC.

8. Learned counsel for the opposite party no. 2 denied any pressure upon the victim, while her statement was being recorded before the Magistrate. Learned counsel for opposite party no. 2 has submitted that the statement of the victim recorded under Section 164 CrPC has been recorded in a free atmosphere and if her mother or brother or any close relative was not present, that can only be an irregularity, rather than an illegality.

9. Learned counsel for opposite party no. 2 has submitted that the statement of the informant was also recorded under Section 161 CrPC, but the same is the subject matter of trial. Learned counsel for opposite party no. 2 also submitted that a civil suit between the parties is going on and the said case has been lodged against opposite party no. 2 in order to wreck vengeance and opposite party no. 2 has falsely been implicated. Earlier, an application under Section 482 CrPC, being Application U/s 482 30592 of 2024; Smt.

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Sheela Devi Versus State of U. P. and another, was filed by the informant and the same was dismissed as withdrawn with liberty to seek appropriate remedy.

10. Having heard learned counsel for the parties, and the fact that this Court vide order dated 13.5.2025, directed the C. J. M., Hapur to submit a report, explaining, as to how and under what circumstances, the statement of the victim was recorded under Section 164 CrPC, which was in violation of Section 26 of POCSO Act. In this regard, a report has been submitted by learned C. J. M., who stated that at the relevant point of time, when the statement of the victim was being recorded, he was posted at Bareilly, not at Hapur. However, J. M. who recorded the statement of the victim, her explanation was also sought in the matter, on receiving explanation it has come on record that on 28.8.2023, when the statement of the victim was being recorded, the victim stated that there were two persons, namely, mother and younger brother of the victim and her father has died and her mother has gone for registration of some sale-deed and noone else has accompanied the victim for getting her statement recorded under Section 164 CrPC, the explanation submitted by the Civil Judge / J. M was also perused.

11. After having gone through the order passed by Additional Sessions Judge / Special Judge, POCSO Act, Hapur and the series of events, such as recording of the statement of the victim under Section 164 CrPC and the material on record, it is a case where interference by this Court is required, therefore, the order dated 30.7.2024 passed by Additional Sessions Judge / Special Judge, POCSO Act, Hapur, rejecting the protest petition filed by the informant, is liable to be set aside and is hereby set aside. The matter is remitted back to the the Additional Sessions Judge / Special Judge, POCSO Act, Hapur with the direction to pass a fresh order, taking into consideration the entire facts and series of events in the case.

12. So far as the explanation submitted by the Officer is concerned, the Officer has admitted that a mistake has been committed by her but any mistake, that affects the rights and liabilities of individuals has to be avoided. The Officer has herself stated that neither the mother nor brother of the victim was present, at the time of recording the statement of the victim, which goes contrary to the mandate of Section 26 of the POCSO Act.

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Section 26 of the POCSO Act as under:

"26. Additional provisions regarding statement to be recorded-

(1) The Magistrate or the police officer, as the case may be, shall record the statement as spoken by the child in the presence of the parents of the child or any other person in whom the child has trust or confidence.

(2).....

(3)....."

13. A plain reading of Section 26 reveals that the statement of the victim be recorded in the spirit of Section 26 of the POCSO Act. It is noteworthy that the High Court and Hon'ble Supreme Court have from time to time laid emphasis and have expressed concern regarding rising trend of crime against children and have further directed that the Courts should be sensitive in relation to the offences committed against children and therefore,preventive measures are necessary to minimize crime against children. The POCSO Act is a special Act and is different from any other criminal law. Hence, not only the Judicial Officers, but also the police officers / officials should also be sensitive towards the crime against women and children and therefore, it goes without saying that while recording the statement of the victim under POCSO Act or dealing with crime against children, judicial officer have to be careful, attentive, sensible, fair and impartial, so that the truth prevails and the culprit be punished for commission of crime against children.

14. Hence, the officer concerned is advised to be careful in future, while recording the statement of a child victim or any other victim looking to the sensitivity of the crime. Needless to say, that the Judicial Officers at Magisterial level are over burdened with heavy rush of work and therefore, may commit such mistakes.

15. Under the circumstances, it is directed that the said advice given to the officer, looking to the early stage of carrer, will not stand in the way of her future avenues, in any manner, whatsoever.

16. It is further directed that the copy of this order be circulated among all the Judicial Officers, who are dealing with recording of such statements of

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child victim in the State of U. P. Registrar (Compliance) is directed to comply with the order to be circulated within a reasonable period.

17. With the above, the instant revision stands allowed.

(Harvir Singh,J.)

September 18, 2025
HR

Digitally signed by :-
HEMANT RANJAN
High Court of Judicature at Allahabad

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