

... 1 ... SPL.CASE CHILD PROT.NO. 495/2017
CNR-MHPU01-014350-2017

Received on : 15.11.2017
Registered on : 23.11.2017
Decided on : 08.02.2022
Duration : Ys.Ms.Days
04 02 16

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUNE.
(Presided over by Sunil G. Vedpathak)

SPL.CASE CHILD PROT.NO. 495/2017
Exh.No.

State of Maharashtra,
Through P.S.O., Hadapsar
Police Station, Pune.
(C.R.No. 288/2017)

... Prosecution

Versus

Sagar Arjun Potare,
Age 22 yrs., Occu. Education,
R/at Sahajeevan Complex, Saint
Tukaram Chowk, Papade Vasti,
Phursungi, Tal. Haveli, Dist. Pune.

... Accused

Charge : Under Sections 354-A(1)(i), 354(D)(1)(i)
of I.P.C. and Section 12 of the Protection of Children
From Sexual Offences Act 2012

Appearance :

Addl.P.P.Mr. H.Y.Mendki for the prosecution
Adv.Mr. S. S. Patil for the accused

J U D G M E N T
(Delivered on 8th day of February 2022)

Accused stands prosecuted for the commission of offences punishable under Sections 354-A(1)(i), 354(D)(1)(i) of I.P.C. and Section 12 of the Protection of Children From Sexual Offences Act 2012.

2. Informant Kavita Bapurao Chavan, resident of Tukai Tekdi, near Police Outpost, Hadapsar, Pune approached to Hadapsar Police Station on 20.03.2017 and lodged report Exh. 35 wherein she alleged that victim, a minor girl of 16 years is her daughter. She works as Supervisor in I.B.M. Company, Phursungi. Victim takes education for 10th standard in Bhekrai Mata Secondary School. Since last one year accused used to say victim that she should love him otherwise he will kidnap her, so also he will assault her family members as he is the 'Dada' of that area. He under threat get recorded the talk of victim in a mobile phone that she loves him and she will marry with him. Then he gave one mobile phone to Mahima Tare and asked her to cause victim to contact him through said mobile phone. If victim has not contacted him then he will commit suicide. Due to fear victim made phone call to him. The said fact was narrated by victim to her. Therefore, she, her husband Bapurao and neighbours Ganesh Kharat, Amol Kharat had been to the house of accused and gave understanding to him.

3. Again on 20.03.2017 victim returned to home from school and told that at about 2.00 p.m. when she was returning from her school at that time accused Sagar Arjun Potare followed her on motorcycle. He gave call to her to stop near Gajanan Maharaj Mandir. Then he told her that he loves her, he likes her much. Then he caught her hand and pulled her near him. He took photograph of both in his mobile phone. He threatened her that if she discloses said fact to anybody then he will kill her as well as her family members as he happens to be Dada of that area. Accordingly, informant narrated said incident to her husband. Thereafter, this report was came to be lodged before PW-5 the then A.P.I. Atul Balaso Mali, who get recorded said report and registered Crime No. 288/2017 under Sections 354, 341, 506 of I.P.C. and Section 8 of POCSO Act.

4. PW-4 Kalyani Satish Shinde the then P.S.I. attached to Hadapsar Police Station, Pune investigated the crime. She drew spot panchanama as per Exh. 26. Collected birth certificate of victim. Recorded statement of witnesses. Arrested accused, then get recorded the statement of victim under Section 164 of Cr.P.C. as per Exh. 27. Accused was also referred for medical examination. Mobile of accused forwarded for examination to C.A. through letter Exh. 28 and after due investigation submitted charge-sheet.

5. Ld.Predecessor framed charge against accused for the

offences punishable under Sections 354-A(1)(i), 354-D(1)(i) of I.P.C. and Section 12 of the POCSO Act below Exh. 7. Contents of the same were read over and explained to accused to which he denied, pleaded not guilty and claimed to be tried. Defence of the accused is of total denial and false implication.

6. In order to prove guilt of the accused prosecution has examined in all five witnesses whereas no evidence is adduced on behalf of accused in his defence.

7. Heard arguments of both parties.

8. Following points arise for determination and I record findings thereon coupled with reasons stated below.

<u>P O I N T S</u>		<u>F I N D I N G S</u>
1	Whether the prosecution proves that on 20.03.2017 at about 2.00 p.m. near Gajanan Maharaj temple, Hadapsar on the road accused sexually harassed victim child by doing physical contact by holding her hand and pulling her near him, clicked her photo with him and advanced involving unwelcome and explicit sexual overtures by saying that he loves her and he likes her and thereby committed an offence punishable under Section 354-A(1)(i) of I.P.C.?	Not Proved.
2	Whether the prosecution proves that on 20.03.2017 and prior to one year from that	

	accused followed victim and contacted or attempted to contacted her to foster personal interaction repeatedly despite a clear indication of disinterest by her and thereby committed an offence of stalking punishable under Section 354-A(i)(i) of I.P.C.?	Not Proved.
3	Whether the prosecution proves that since one year prior to 20.03.2017 and on 20.03.2017 accused sexually harassed a child victim by repeatedly or constantly followed her, contacted her either directly or through electronic or any other means, threatened her to kill her and her family members and uttered words that he loves her and he likes her with sexual intention that such words or sound shall be hear by the said child and thereby committed an offence under Section 11(i)(iv) punishable under Section 12 of the POCSO Act?	Not Proved.
4	What order?	As per final order.

R E A S O N S

AS TO POINT NOS. 1 TO 3 :

9. PW-1 informant Kavita, mother of victim. She states that date of birth of victim is 22.06.2001 and at the time of incident she was of 16 years old. Accused clicked photograph of victim and in that respect she had been to police station. Except this nothing was happened. In short, she did not support the prosecution.

10. Prime witness victim PW-2 while giving evidence she completed 19 years of her age. She deposed that in the month of March 2017 she was of 16 years old and her date of birth is 22.06.2001. While she was returning to home from school accused caught her hand and clicked selfi, except this, nothing happened. It means she had made total deviation from allegations made by her in her statement recorded by I.O. as well as her statement under Section 164 of Cr.P.C. Her evidence pertaining to incident in question is totally silent. Even her statement regarding holding her hand and clicking selfi by accused is very vague as it does not provide day, date, time and place. Therefore, the evidence of victim is not helpful to prove the offences as alleged.

11. PW-3 Balasaheb Ananta Shewale, Police Head Constable of Hadapsar Police Station states that upon report he registered crime on 21.03.2017 and prepared printed F.I.R. as per Exh. 24.

12. Evidence of PW-4 and 5 is already discussed by me in the earlier part of judgment.

13. If evidence on record is appreciated then it goes without saying that same is not sufficient to prove the offences as alleged. Hence, it is needless to mention that accused is entitled to be acquitted. Hence, following order.

O R D E R

1. Accused Sagar Arjun Potare is hereby acquitted under Section 235(1) of the Cr.P.C. of the offences punishable under Sections 354-A(1)(i), 354(D)(1)(i) of I.P.C. and Section 12 of the Protection of Children From Sexual Offences Act 2012.
2. Bail bonds of accused shall stand cancelled.
3. Accused shall furnish fresh P.R.Bond of Rs. 15,000/- with surety in like amount as per the provisions of Section 437-A of Cr.P.C.
4. Muddemal property i.e. mobile phone of Samsung Company, IMEI 355694/6/027074/2 be sold in auction and sale proceeds be credited to Government, after expiry of appeal period.

Date : 08.02.2022

(Sunil G. Vedpathak)
Addl. Sessions Judge, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same word for word as per original Judgment.

Name of steno : Smt. N. A. Surve

Name of the Court : Shri. Sunil G. Vedpathak
Additional Sessions Judge, Pune

Date of Order : 08.02.2022

Order signed by P.O. on: 10.02.2022

Order uploaded on : 10.02.2022