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CNR-MHPU010074932019 Exhibit - 82

<u>IN THE COURT OF SESSIONS, AT PUNE,</u> (Presiding Officer : Sucheta M. Takalikar, Special & Additinal Sessions Judge & District Judge-8, Pune) Date of Judgment : 25/02/2026 Spl. Case (POCSO) No.248/2019	
FIR No.114/2019, U/s. 376(iii), 506 of the Indian Penal Code and U/s. 4, 6 of the POCSO Act, 2012 Police station – Rajgad	
FORM No.XXXII [Title page of Judgment] PART 'A' [Para 44(i) of Chapter VI of Criminal Manual]	
Prosecution	State of Maharashtra, Through A.P.I. P.S., R.G. Rathod.
REPRESENTED BY	Ld. Addl. Public Prosecutor, Mrs. A. S. Bramhe state
ACCUSED	Bajrang Ramchandra Khopde, Age : 35 years, Occ.: Labour, R/at –Telwadi, Taluka Bhor, District- Pune.
REPRESENTED BY	Learned Advocate Smt. Nilima Vartak for accused

PART 'B'

[Para 44(ii) of Chapter VI of Criminal Manual]

Date of offence	:	November, 2018
Date of FIR	:	30/03/2019
Date of Chargesheet	:	28/05/2019
Date of Framing of Charges	:	29/01/2021
Date of commencement of evidence	:	23/07/2024
Date on which judgment is reserved	:	25/02/2026
Date of the judgment	:	25/02/2026
Date of the Sentencing Order, if any	:	25/02/2026

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr. P. C.
1	Bajrang Ramchandra Khopde	30/03/2019	UTP	U/Ss. 376(3), 506 of IPC and U/s. 3, 5(j)(ii) punishable U/s. 4, 6 of POCSO Act	Convicted	As per final order	6 years, 10 months, 25 days

PART 'C'

[Para 44(iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES

A. Prosecution :

RANK	Exh. No.	NAME	NATURE OF EVIDENCE
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			(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW.1	20	Mother of the victim ABC	Complainant
PW.2	25	Victim ABC	Victim
PW.3	28	Ganesh Dnyanoba Salunkhe	Panch witness
PW.4	30	Dr. Amol Ramesh Patil	Medical Witness
PW.5	31	Dr. Hemant Vithoba Vaidya	Medical Witness
PW.6	35	Raju Gyanoba Rathod	Investigating Officer
PW.7	54	Yogesh Laxman Rajiwade	Carrier of DNA samples
PW.8	56	Dr. Swati Madhukarrao Sanap	Medical Witness
PW.9	59	Amir Jilani Shaikh	Carrier of DNA Samples
PW.10	63	Vinodkumar Babanrao Shahagadkar	Assistant Chemical Analyzer
PW.11	64	Suresh Govindrao Waghmare	Gramsevak
PW.12	78	Dr. Bhagyashri Sandip Patil	Medical Witness

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	----- Nil -----	

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	----- Nil -----	

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	21	FIR
2	22	Bonafide Certificate of victim ABC
3	26	Birth Certificate of victim ABC
4	27	Statement U/s.164 of the victim ABC
5	29	Spot panchanama
6	32	Cause of death certificate
7	33	Postmortem report
8	36	Printed F.I.R.
9	37	Spot Occurrence Report
10	38	Arrest Panchnama
11	39	Letter sent to the Sasoon Hospital for collection of sample
12	40	Letter to C.A. for receiving DNA Sample Kits
13	41	Letter in respect of to collect the biological samples of the accused
14	42	Letter sent to M.O. Rural Hospital, Bhor for getting DNA samples of the accused
15	43	Letter sent to C.A. office for preserving

		samples
16	44	Acknowledgment of preserving DNA samples letter
17	45	Letter sent to Sasoon Hospital for receiving DNA samples
18	46	Letter sent to CA for examining biological samples of victim ABC and accused
19	47	Letter, dated 08/04/2019 for examining the DNA
20	48	Statement U/s. 164, dated 15/04/2019
21	49	Inquest Panchnama of baby of victim ABC
22	50	DNA Report
23	51	Muster Card of Devrai Farm
24	57	Medico Legal Report
25	68	Copy of extract of Birth Register
26	79	Medical Certificate of the accused
27	Article 'X'	Form given with the DNA Kit

B. Defence Exhibits :

Sr. No.	Exhibit Number	Description
		----- Nil -----

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	5 & 5A	Charge
2	6 & 6A	Plea
3	70 & 81	Statement U/S. 313 of Cr.P.C.

D. Material Objects :

Sr. No.	Material Object Number	Description
1		----- Nil -----

J U D G M E N T
(decided on 25/02/2026)

Accused has been tried for the offences punishable under Sections U/s. 376(3), 506 of the Indian Penal Code, 1860 (hereinafter referred as 'IPC') and under Sections 3, 5(j)(ii) punishable U/s. 4, 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred as 'POCSO Act, 2012').

The prosecution case in brief stated as under –

2] The complainant is the mother of the Victim Girl ABC. The Victim Girl ABC was studying in 7th Std. Her date of birth is 04/11/2005. It is stated that on 29/03/2019, Victim Girl ABC felt giddiness and fell down in the school. Therefore, the complainant took her to the clinic of Dr. Patil for medical examination. At that time, Dr. Patil examined Victim Girl ABC and told that she is pregnant. Thereafter, complainant and Victim Girl ABC came to the house. The complainant took the Victim Girl ABC in confidence and asked her. At that time Victim Girl ABC told that when the complainant went in Devrai Farm Aggro Tourism, Talwade for preparation of vegetables. That time, the guests came in the house she came to Devrai Farm to call her and she was returning to the house. That time accused took her in room of Darbar Hall at Devrai Farm. He laid her on

the bed, removed her entire clothes and he also removed his clothes below waist. He pressed her chest and inserted his private part into her private part. He gagged her mouth so that she could not shout and threatened to kill her in case she disclosed the said incident to anybody. Thereafter, the complainant went to Police Station and lodged the complaint of the said incident. On the basis of said complaint, Crime bearing No.114/2019 for the offence punishable U/s. 376(3), 506 of IPC and U/s. 4, 6 of the POCSO Act, 2012 came to be registered against the accused.

3] Shri. Raju Dnyanoba Rathod, Police Sub Inspector of Rajgad Police Station carried out investigation. During the course of investigation, he visited the spot of incident, prepared spot panchanama, obtained birth certificate of the Victim Girl ABC, arrested the accused, prepared arrest panchanama, sent the Victim Girl ABC for medical examination, gave letter for DNA Kit, also gave letter to the Medical Officer for medical examination of the accused and for extracting his blood sample, recorded statement of witnesses, sent the seized medical samples to Forensic Laboratory, also sent DNA samples of Victim Girl ABC and femur bone of her child to Forensic Laboratory. After completion of due investigation, he filed the charge-sheet against the accused.

4] The accused is in jail.

5] My Ld. Predecessor Shri. K.K. Jahagirdar, Extra Jt. And

Additional Sessions Judge, Pune framed the charge against the accused for the offences punishable under Sections 376(3), 506 of IPC and U/s. 4, 6 of the POCSO Act, 2012 vide Exh.5. I have altered the charge for the offences punishable U/s. 376(3), 506 of the IPC and under Sections 3, 5(j)(ii) punishable U/s. 4, 6 of the POCSO Act, 2012. The contents of the charge were read over and explained to the accused in vernacular to which he pleaded not guilty and claimed to be tried. His defence is total denial and false implication.

6] To prove its case, prosecution has examined in all twelve witnesses and also relied on the documentary evidence.

7] After closer of the evidence of prosecution witnesses, incriminating circumstances appearing in the evidence of prosecution witnesses has been put to the accused in his statement recorded under Section 313 of Cr.P.C. The answers given by him have been recorded therein. His defence is that of false implication. Accused has examined his wife as defence witness (DW1).

8] I have heard Ld. APP for the State and Ld. Advocate for the accused at length.

9] From the facts and circumstances and evidence recorded by the prosecution, from the statement of accused under Section 313 of Cr.P.C. following points arise for my determination. I have noted my findings for the reasons stated below—

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1)	Does the prosecution prove that November 2018 at the time of incident victim ABC was the child within the meaning of Section 2(d) of the POCSO Act?	... In the affirmative, Victim Girl ABC was 13 years old.
2)	Does the prosecution prove that the accused in the month of November 2018 in a room of Darbar Hall at Devrai Farm committed rape on a victim ABC girl who was below 16 years of age ?	... In the affirmative.
3)	Does the prosecution prove that the accused on the aforesaid month, year and place committed penetrative sexual assault on victim ABC girl ?	... In the affirmative.
4)	Does the prosecution prove that the accused on the aforesaid month, year and place committed aggravated penetrative sexual assault on victim ABC girl and made her pregnant ?	... In the affirmative.
5)	Does the prosecution prove that the accused on the aforesaid month, year and place committed criminal intimidation by threatening victim ABC girl with intent to cause alarm ?	... In the affirmative.
6)	What offence, if any is made out ?	... The offence U/s. 376(3), 506 of the IPC and U/s.4, 6 of

the POCSO Act,
2012.

7) What order ?

... ... As per the final
order.

: REASONS :

As to point No.1 -

10] The prosecution came with the theory that as on the alleged date of incident the Victim Girl ABC was 13 years old therefore, she was under 18 years of age. Therefore, it is duty of the prosecution to prove the age of Victim Girl ABC as on the alleged date of incident.

11] Ld. APP in her arguments invited my attention towards the birth certificate of the Victim Girl ABC Exh.26 and the evidence of PW11-Suresh Waghmare and submitted that the prosecution has proved that the Victim Girl ABC was under 18 years of age as on the date of alleged incident.

12] Ld. Advocate for the accused has not submitted any arguments on the date of birth of the Victim Girl ABC.

13] I have gone through the evidence adduced by the prosecution.

14] PW1 is the mother of the Victim Girl ABC. She in her evidence testified that in 2019, the Victim Girl ABC was 12 years old. The date of birth of the Victim Girl ABC is 04/11/2005.

15] Upon perusal of her entire cross-examination taken by the defence it appears that there is no any cross-examination on the date of birth of the Victim Girl ABC stated by PW1. Therefore, her evidence as regards the date of birth i.e. 04/11/2005 of the Victim Girl ABC has remained unchallenged.

16] PW2 is the Victim Girl ABC. She also testified that her date of birth is 04/11/2005. Upon perusal of her entire cross-examination taken by defence counsel, there is no any cross-examination on date of birth of the Victim Girl ABC stated by her. Therefore, her evidence as regards her date of birth also remained unchallenged.

17] In this case, the prosecution has produced birth certificate of the Victim Girl ABC issued by the Gramsevak, Gram Panchayat office, Telwade. It is at Exh.26. The prosecution has examined PW11-Suresh Waghmare, Gramsevak, Gram Panchayat office of Telwade. He testified that since 26/11/2021, he is serving as a Gramsevak. He has brought original register maintained in Gram Panchayat office from 2001 to 2005. He further testified that birth certificate of the Victim Girl ABC (Exh.26) has been issued by him in the capacity as Gramsevak of Telwadi Gram Panchayat. It bears his signature. The entry of date of birth of the Victim Girl ABC has been recorded on the basis of original birth register and birth has been registered as 20/11/2005. As per the register, date of birth of the Victim Girl ABC is 04/11/2005. He has produced verified copy of relevant extract of Gram Panchayat register. It is at

Exh.68. In his cross-examination, he admitted that as per the register, the Victim Girl ABC was not born in any hospital and column no.9 in the extract of register has been kept blank and the register has not been numbered. Besides this, nothing has been brought on record to disbelieve his evidence.

18] Upon perusal of birth certificate (Exh.26), it appears that names of parents of Victim Girl ABC, her date of birth, place of birth, address of parents of Victim Girl ABC is mentioned therein.

19] The Hon'ble High Court in *Rupchand Dilip Shende Vs. State of Maharashtra, Criminal Appeal No.155 of 2023* held that as per Section 9 of the Maharashtra Registration of Birth and Death Rules, 1976 this certificate is issued by the Gram Sevak acting under the provisions of Birth and Death Act, 1969. It is the duty of the Registrar to register every birth and death which takes place within his jurisdiction. This Act mandates the Registrar should discharge his duties carefully. Section 8 of this Act mandates each head of the house to report birth in the family to the Registrar. The Act provides for the maintenance of Register for recording birth and death within the local area. That is how certificate came to be issued under Section 12 and 17 of the said Act. The birth certificate, as such is issued by the public officer and it is a document forming the record of the acts of the public officer and therefore, the same is a public document within the meaning of the said term as per provisions of the Section 74 of the Indian Evidence Act. The same is

admissible in evidence by mere production thereof in view of provision of Section 77 of the Indian Evidence Act.

20] It is further held that Section 17 of the Registration of Birth and Death Act provides for search of Birth Register and supply of extract thereof by certifying the same by the Registrar or authorized person. Section 17 of the said Act provides that such extract shall be admissible in evidence for the purpose of proving birth or death to which the entry relates. The Birth Certificate is, in fact, the extract of Birth Register in respect of the entry of birth and as such, admissible in evidence. Section 35 of the Evidence Act makes it clear that if entry is made by public servant in the official book in discharge of his public duty then such entry becomes the relevant fact and admissible in evidence. Section 35 of the Indian Evidence Act lays down that any public, official book, register, record stating fact in issue or relevant fact and made by public servant in discharge of his official duty specially enjoined by the law of country is itself the relevant fact. Thus, it is clear that the birth certificate issued by the statutory appointed competent authority is relevant and admissible. The birth certificate is a public document and primary evidence which can be proved by production in view of Section 77 of the Evidence Act.

21] In the case in hand, the prosecution has not only produced birth certificate of Victim Girl ABC but also has examined the Gramsevak who has issued the said birth certificate on the basis of entry made in the Register Certificate

of register (Exh.68). Further, the evidence of mother of the Victim Girl ABC (PW1) and Victim Girl ABC (PW2) the date of birth of the Victim Girl ABC is 04/11/2005 has remained unchallenged and is corroborated by the evidence of PW11, Gramsevak of the said village. Thus, the prosecution has succeeded in proving the date of birth of the Victim Girl ABC is 04/11/2005.

22] The prosecution came with the theory that the incident took place in November, 2018. Taking into consideration this month and year as well as taking into consideration the date of birth of the Victim Girl ABC as 04/11/2005, in my opinion in the month of November, 2018 Victim Girl ABC was 13 years old that means she was below 16 years of age. Therefore, the prosecution has proved that the Victim Girl ABC was under 16 years of age so she was under 18 years of age and was therefore the child within the meaning of Section 2(d) of the POCSO Act, 2012. Hence, I answer point No.1 in the affirmative.

As to point Nos. 2 to 5:-

23] These the points are interlinked with each other and therefore, I have decided to discuss them together.

24] To prove it's case, the prosecution relied on the evidence of complainant, Victim Girl ABC, Medical Officer and Scientific Expert.

25] PW1 is the mother of the Victim Girl ABC. She

testified that since 2016, she was working in Devrai Farm's Tourism and preparing food. On 29/03/2019, the Victim Girl ABC went to the school. Victim Girl ABC felt giddiness therefore, she took her to the clinic of Dr. Patil. Dr. Patil examined her and told that Victim Girl ABC is pregnant. The complainant came to the house along with Victim Girl ABC and made an inquiry with the Victim Girl ABC. The Victim Girl ABC told that the accused working in Devrai Farm took her in Darbar Hall, removed her clothes, gagged her mouth and established forceful physical relation with her and threatened to kill her in case she disclosed the incident to anybody. The accused was working in said Farm. She identified the accused. She further testified that the Victim Girl ABC told that the incident took place at the time of Diwali festival of 2018.

26] PW1 further testified that thereafter, she took the Victim Girl ABC in Police Station and lodged the complaint of the said incident. It is at Exh.21. Thereafter, the police sent the Victim Girl ABC to Sasoon hospital. She took the Victim Girl ABC to Sasoon hospital. The Victim Girl ABC was admitted there for 10 days. The Victim Girl ABC has undergone abortion there.

27] In her cross-examination by the Ld. defence counsel, she admitted that the area of Devrai Farm is large. Many persons are working there. The said persons were getting salary. She also was getting salary but she was not signing anywhere about the receipt of salary. The muster book has been

maintained there. Her name has been recorded in muster book. She worked there till Diwali of 2018. She further admitted that at the time of Gouri - Ganpati 2018 for the second time Victim Girl ABC had menstrual cycle. Thereafter, she has not received her menstrual cycle.

28] It has also brought on record from her cross-examination that the accused was working in Devrai Farm for cleaning of canteen room. The accused joined his work after she joined her work. She denied that the accused lodged complaint against her therefore, she was removed from the job and hence, she got angry on the accused. She admitted that the accused, his wife and his children were residing at Devrai Farm.

29] PW2 is the Victim Girl ABC. She testified that at the time of incident her mother was working as a cook in Devrai Farm. In 2018, her mother went to Devrai Farm for work. Her grandmother came to the house therefore, she went to Devrai Farm to call her mother. She gave message to her mother and thereafter, was returning that time accused was watering the plants. He gagged her mouth, took her in Darbar Hall, removed her clothes and removed his clothes also, laid her on bed and inserted his private part into her private part. He pressed her chest. He gagged her mouth so that she could not shout. He threatened to kill her therefore, she has not narrated the incident to anybody.

30] It is also come in her evidence that after some days,

she felt giddiness in the school therefore, she came to the house. Her mother took her to clinic of Dr. Patil. He told that she is pregnant. She narrated the said incident to her mother. Her mother took her to Police Station wherein her mother lodged the complaint. Thereafter, she was sent to the Sasoon hospital. She has undergone abortion. Doctor has taken her blood samples, nails and other samples. Her statement was recorded in the Court. It is at Exh.27.

31] In her cross-examination, she admitted that whenever there was holidays to school, she used to go with her mother to help her in work at Devrai Farm. She was helping her mother in preparing food. Her mother took her to two different clinics for medical examination. She denied that she was not knowing the accused by face and by name. Her samples were taken after two dates of her admission in the Sasoon hospital.

32] Upon perusal of her statement recorded U/s. 164 of the Cr. PC (Exh.27) Victim Girl ABC stated that her mother was working as a cook in Devrai Farm. In November, 2018 her grandmother came to her house therefore, she went to Devrai Farm to inform this to her mother, she informed her mother and was returning home. At that time, accused came there, he gagged her mouth, took her in a room, removed her clothes and his clothes and established forceful physical relation with her. He kept his hand on her mouth therefore, she could not shout, he threatened to kill her in case she disclosed incident to her parents. Therefore, she was frightened and not disclosed the

incident.

33] PW3-Ganesh Salunkhe is the panch witness on the Spot Panchnama. He testified that maternal uncle of the Victim Girl ABC told him about the said incident. The police called him to Devrai Farm. Another panch Gurav was with them. The police shown them bed no.3. At that time Victim Girl ABC and accused were present there. Panchanama was prepared in their presence. It is at Exh.29.

34] In his cross-examination, he admitted that the maternal uncle of the Victim Girl ABC is his friend. He has not visited to the Devrai Farm before that time. There was no Chadar on the bed. There were in all 17 beds. He denied that the panchanama was not prepared in his presence.

35] PW4-Amol Patil is the medical practitioner who has examined the Victim Girl ABC for the first time. He testified that mother of the Victim Girl ABC brought Victim Girl ABC to his clinic. Victim Girl ABC was suffering from abdominal pain and missed menstruation cycle. He examined the Victim Girl ABC, conducted pregnancy test. The pregnancy test was positive. Therefore, he referred Victim Girl ABC to higher center and advised sonography and thereafter, he came to know that pregnancy of the Victim Girl ABC was confirmed and she was sent to the Sasoon hospital.

36] In his cross-examination, he admitted that he used to

maintain record of the patients. He did not give any copy of the record to the police. The test of the Prega-News is not 100% correct.

37] PW5-Dr. Hemant Vithoba Vaidya is the Medical Officer who has conducted postmortem of deceased baby of the Victim Girl ABC. He testified that on 05/04/2019, dead body of baby of a Victim Girl ABC was brought for postmortem with requisition letter for sample for DNA. He conducted the postmortem. He preserved sample of femur bone for DNA analysis. Thereafter, he issued probable cause of death certificate. He further testified that DNA samples of baby were collected, packed, sealed and handed over to on-duty police.

38] In his cross-examination, he denied the deceased baby was of 7 to 9 months. He denied that after 06 months pregnancy, organs of fetus become visible. He admitted that DNA Kit was not brought and samples were not given in DNA kit.

39] PW6-Raju Gynoba Rathod is the Investigating Officer. He testified that the complainant lodged the complaint. On the basis of said complaint Cr. No.114/2019 came to be registered against the accused. He carried investigation. He collected birth certificate of the Victim Girl ABC, arrested the accused, prepared Spot Panchnama in the presence of two panchas and the spot was in Darbal Hall, Devrai Agro Farm. He recorded the statement of witnesses, referred the Victim Girl ABC for medical examination and samples collection to Sasoon hospital, collected

the medical report and samples, gave letter to C.A. for receiving DNA sample kits, gave letter to the Medical Officer, Rural Hospital, Bhore for medical examination and collection of biological samples of accused, collected medical papers of the accused, sent the samples seized by Medical Officer to Forensic Laboratory, sent the Victim Girl ABC to the Court of Magistrate for recording of statement U/s. 164 of the Cr. PC, prepared inquest panchanama of the dead body of the child of the Victim Girl ABC, obtained postmortem notes. After completion of due investigation he has filed the charge-sheet against the accused.

40] In his cross-examination, he admitted that the Darbal Hall is having more than two doors. The accused was staying there with his wife and children. The Victim Girl ABC was pregnant of 19 weeks and 6 days. He denied that he did not receive DNA kit from CA. He denied that DNA samples of accused and victim and fetus are not sent to FSL.

41] PW7-Yogesh Laxman Rajiwade is the police officer who has carried the samples to Forensic Laboratory. He testified that on 08/04/2019, he was given duty of carrying samples and D.N.A. samples of victim ABC for C.A. in Cr. No.114/2019. He has received sealed samples of D.N.A. and other samples from I.O. He carried the same and deposited said samples in Forensic Lab and obtained acknowledgment. They are at Exh.46 & 47 respectively. Thereafter, he has given the said acknowledgment to the Investigating Officer.

42] In his cross-examination, he admitted that he did not know where the said samples were kept prior to giving it to him. He did not sign any register regarding receiving said samples. Both samples were having seal of Medical Officer of Sasoon Hospital.

43] PW8-Dr. Swati Madhukarrao Sanap is the Medical Officer who has examined the Victim Girl ABC. She testified that the Victim Girl ABC narrated history that she knows the accused since last 3 years. He works in Devrai Farm where her mother works. In Diwali 2018, on one day victim went to Devrai farmhouse, accused dragged her to Darbar Hall in Devrai, removed her clothes, also removed his clothes and did penetrative vaginal forceful sexual intercourse with victim. He closed victim's mouth by hand during intercourse and threatened victim that he will kill her if she told this to anybody at home. She noted history thereafter started examined.

44] It has also come in her evidence that she conducted detail examination of the Victim Girl ABC. She founds uterus size of 20 to 22 weeks. There were multiple old healed hymenal tears. She took samples of Victim Girl ABC i.e. nail clippings, pubic hair combing, cutting of pubic hair, vaginal swabs, vaginal smear and handed over to constable in sealed condition. She gave Medico Legal Report. It is at Exh.57.

45] In her cross-examination, she admitted that MLC register has been maintained in Sasoon Hospital. She is not

having entire paper of treatment of Victim Girl ABC. She has not brought documents regarding termination of pregnancy of Victim Girl ABC. According to her, generally, premature delivery is termed to delivery which occurred during 24 to 28 weeks. She admitted that there are no details of DNA Kit mentioned in Medical Legal Report.

46] PW9-Amir Shaikh is also the carrier of the samples of the accused to Forensic Laboratory. He testified that on 02/04/2019, he has carried medical samples and DNA samples to Forensic Laboratory. The samples were given in ice box. He deposited it and obtained acknowledgment. The samples were in sealed condition.

47] In his cross-examination he admitted that he has not made any entry in the register about carrying the samples to Forensic Laboratory and he cannot tell when the samples were deposited in Police Station.

48] PW10-Vinodkumar Babanrao Shahagadkar is the Chemical Analyzer. He testified that he received samples of the victim's fetus and the samples of the victim ABC and accused for DNA analysis. The samples were in sealed condition. The case was allotted to him. He obtained all the three samples. He received blood samples of the accused and victim ABC along with their identification form. He took the sample for analysis and extracted the DNA from the samples of accused and victim ABC. Thereafter, he extracted the DNA from the femur bone

piece of the baby of victim ABC. He matched the DNA profile of accused and victim ABC with the DNA profile of the femur bone of the baby. The DNA profile of the victim ABC and accused matched with the DNA profile of femur bone of the baby of victim ABC. Accordingly, he gave his opinion that “victim and the accused are concluded to be the biological parents of the baby of the victim”. Accordingly, he prepared the report. It is at Exh.50.

49] In his cross-examination, he admitted that whenever sample for DNA is to be taken, it is required to be taken in DNA kit and the DNA kit is to be provided from their office. He verified the DNA kit number which was given to the concerned police station by their office with the DNA kit received to him. He admitted that the DNA kit number is not mentioned in the report but according to him, it is mentioned on the identification form.

50] PW12-Dr. Bhagyashri Patil is the Medical Officer who has examined the accused. She testified that on 02/04/2019, she was on duty in the Rural Hospital, Bhor. On that date she received letter from Rajgad police station for medical examination of one accused and taking medical sample of that accused. It is at Exh.41. On the same date, she received another letter for taking blood samples of the accused in DNA kit. It is at Exh.42. She examined the accused medically. She extracted blood samples from the accused, sealed it and gave it to the police. She also filled the Form required for DNA

examination and gave it to the police officer. She issued medical certificate. It is marked as Exh.79. The photo copy of the Form given by her along with DNA Kit is marked as Article 'X'. She gave all the samples in sealed condition to Investigating Officer.

51] In her cross-examination, she admitted that the specific number is given to the DNA Kit. The DNA Kit number, name of the accused and his photograph and any other document of identification of the accused has not been kept by her in their office. She admitted that the photograph of the accused was affixed on the Form brought by the police. The Form was original Form and the photograph affixed on the Form was also original. She has not mentioned DNA Kit number nor annexed any other documents showing the identity of the accused along with the said Form.

52] In rebuttal the defence has examined DW1-Pooja Bajrang Khopade wife of accused. She testified that in 2019, she, her husband and two children were residing at Telwadi. They were residing in Devrai Farm. Bharat and his wife were working in Devrai Farm. She was preparing food. Her husband was looking after other works in the Farm House. Mother of the Victim Girl ABC was not doing any work there. She do not know the Victim Girl ABC. The children under 18 years are not allowed to work at the place where they were working.

53] In her cross-examination, she admitted that since prior to 2019, she, her husband were residing permanently there and

in case many persons came to the Devrai Farm for lunch or dinner that time, many ladies were required for doing extra work. At that time, ladies from out side were also been called for doing extra work. The entry of those ladies were also taken in muster book. She is an uneducated. Darbal Hall is far away from the kitchen. She do not know whether complainant was coming there for work. She do not know whether on the date of incident the Victim Girl ABC came to call her mother. Since 2019, till today she had not been to the police station to inform that the complainant was not working there.

54] In the light of above evidence, I have heard Ld. APP for the State and Ld. Advocate for the accused at length.

55] Ld. APP in her arguments submitted that the mother of the Victim Girl ABC was working in Devrai Farm. The statement of the mother of the Victim Girl ABC and Victim Girl ABC is consistent. The statement of Victim Girl ABC statement U/s. 164 of the Cr. PC is also consistent with her evidence. She further submitted that the Spot Panchnama has been proved but it was prepared after 4 to 5 months therefore, nothing was found on the spot. She invited my attention towards the evidence of Dr. Patil (PW4) and submitted that this witness has found the Victim Girl ABC was pregnant therefore, he has referred Victim Girl ABC to sonography. PW5 has conducted postmortem of the fetus of the Victim Girl ABC. He has preserved the femur bone of the fetus and sent it to Forensic Laboratory. PW6 has sent sealed medical samples of the Victim

Girl ABC and accused to Forensic Laboratory and also sent the seal femur bone of the fetus of Victim Girl ABC to Forensic Laboratory. PW7 carried the said samples to Forensic Laboratory. DNA report is conclusive and positive. PW8 has medically examined the Victim Girl ABC and Victim Girl ABC is found 20 Weeks pregnant.

56] According to her, the prosecution has examined Chemical Analyzer and proved the DNA report. She further submitted that the prosecution has examined the Medical Officer who has extracted the samples of the accused and all the samples were sent in backed and sealed condition. The Victim Girl ABC has no reason to falsely implicate the accused. DW1 is the wife of the accused and in order to save her husband she deposed falsely. According to her, the prosecution from the evidence of prosecution witnesses proved that the accused established forceful physical relation with the Victim Girl ABC and out of which Victim Girl ABC got pregnant. Hence, submitted that the prosecution has proved the charges levelled against the accused.

57] She relied on the following case laws:-

I] Gittikhadan Vs. State of Maharashtra through Police Station Officer, Police Station, 2025 Supreme (Bom) 646.

II] vilas Laxman Chawan Vs. State of Maharashtra, 2025 Supreme (Bom) 779.

III] Chhotelal Kandhari Pajapati Vs. The State of Maharashtra, 2017 Supreme (Bom) 1639.

58] Ld. Advocate for the accused in her arguments submitted that the prosecution has failed to prove on which particular date Victim Girl ACB went in the Devrai Farm. She further submitted that the prosecution has failed to prove that the mother of the Victim Girl ABC was working in the Devrai Farm. The muster book has not been proved by the prosecution. The best witness was Kiran Patil who was the manager of the Devrai Farm but he has not been examined to show that the mother of the Victim Girl ABC was working in the Devrai Farm. She further submitted that the mother of the Victim Girl ABC has no reason to left or stop the work in the Devrai Farm. According to her, there is delay of six months in lodging the complaint. No explanation has come from the Victim Girl ABC or her mother about the delay in lodging the FIR.

59] According to her, the evidence of PW4 is not under Section 45 of the Indian Evidence Act. He has not produced any document on record to show that he has examined the Victim Girl ABC. She further invited my attention towards Spot Panchnama (Exh.29) and submitted that as per the panch witness, the police have shown on bed No.3. The topography of the said Darbar Hall also shows that there are number of windows and doors. Nothing has been brought on record to show that at that time the said windows and doors were closed. According to her, such type of act would have been committed in secrecy but the topography shows that there are number of

doors therefore, any one can come from the doors. Therefore, incident itself is doubtful. Further, the kitchen is adjacent to the Darbar Hall therefore, there is no possibility of committing such type of offence.

60] She further submitted that PW1 & PW2 have not stated exact date when the alleged incident had taken place. She invited my attention towards the Medical Officer who has conducted postmortem of the fetus of the Victim Girl ABC and submitted that there is no evidence as to whether there was termination of pregnancy or premature delivery. There is nothing on record about the MTP. Detail argument has been advanced on DNA report. She invited my attention towards the cross-examination of the Medical Officer who has examined the Victim Girl ABC and who examined the accused and who has taken sample of femur bone of the fetus of the Victim Girl ABC and submitted that there is nothing on record to show the sample were kept in safe custody. There is delay in sending the sample to Forensic Laboratory. The collection, preservation and sending the sample is not properly done.

61] According to her, there is nothing on record to show that the two Kits were given by the Forensic Laboratory. The Kit number is also not mentioned. According to her, the prosecution has failed to prove foundational fact. Therefore, the presumption under Section 29 of the POCSO Act is not applicable.

62] She further submitted that the accused has examined his wife in his defence who has stated that she has never seen the mother of the Victim Girl ABC and Victim Girl ABC working in Devrai Farm.

63] She relied on the following case laws:-

I] Kattavellai Alias Devakar Vs. State of Tamilnadu, Criminal Appeal 1672 of 2019 D/-15-07-2025.

II] State of Rajasthan through Public Prosecutor Vs. Shaym Kumar Son of Mangi Lal, S.B. Criminal Leave To appeal No.667/2024.

III] Ishwar Singh Vs. The State of U.P, AIR 1976 SC 2423.

IV] Deelip Tatoba Raje Vs. The State Maharashtra & Anr., 2024 ALL MR (Cri.) 2082=2024:BHC-AS:21684

and submitted that the prosecution has utterly failed to prove the charges levelled against the accused. Therefore, according to her, accused be acquitted.

64] I have minutely gone through the evidence adduced by the prosecution and also considered the submission of Ld. Advocate for the accused.

65] Ld. Advocate for the accused submitted that there is delay of four to five months in lodging FIR and that delay has not been explained by the prosecution. Therefore, the prosecution story appear to be doubtful.

66] Upon perusal of the evidence of PW1, she stated that the incident took place at the time of Diwali, 2018. But on 29/03/2019, the Victim Girl ABC felt giddiness in the school therefore, she took her to the hospital of Dr. Patil who informed that the Victim Girl ABC is pregnant and upon inquiry, the Victim Girl ABC told the incident to her. Immediately on the next date, she lodged the FIR (Exh.21) therefore, PW1 as soon as she came to know about the incident she lodged the complaint. Therefore, it cannot be said that there is delay on the part of PW1 in lodging complaint.

67] Further, PW1 stated that Victim Girl ABC told that the accused threatened to kill the Victim Girl ABC in case, she disclosed the incident to her parents. The Victim Girl ABC PW2 in her evidence deposed as well as in her statement recorded U/s. 164 of the Cr. PC stated that the accused threatened to kill her in case she disclosed the incident to her parents therefore, she has not disclosed the incident. It is necessary to mention here that as per the FIR (Exh.21) at that time the Victim Girl ABC was hardly 13 years old. Her mother was going for work in Devari Farm till Diwali of 2018. It has brought on record that Devari Farm is 5 minutes walking distance from the house of complainant. The Victim Girl ABC has to go to the school as well as she was going to Devari Farm to help her mother in the work during the period of holidays. Under such circumstances, the Victim Girl ABC would have frightened in case she disclosed the incident to her parents then the accused would kill her therefore, she has not disclosed the incident to her parents.

Taking into consideration the age of Victim Girl ABC at the time of incident it cannot be said that the delay is not satisfactorily explained.

68] Further, the Hon'ble Apex Court in the case of ***Tulsidas Kanolkar Vs. State of Goa, 2003(8) SCC 590*** wherein the rape was committed on a girl and observed that

“.....In any event, delay per se is not a mitigating circumstance for the accused when accusations of rape are involved. Delay in lodging first information report cannot be used as a ritualistic formula for discarding prosecution case and doubting its authenticity. It only puts the court on guard to search for and consider if any explanation has been offered for the delay. Once it is offered, the Court is to only see whether it is satisfactory or not. In a case if the prosecution fails to satisfactorily explain the delay and there is possibility of embellishment or exaggeration in the prosecution version on account of such delay, it is a relevant factor. On the other hand satisfactory explanation of the delay is weighty enough to reject the plea of false implication or vulnerability of prosecution case. As the factual scenario shows, the victim was totally unaware of the catastrophe which had befallen to her. That being so, the mere delay in lodging of first information report does not in any way render prosecution version brittle.”

69] In the case in hand also according to the Victim Girl ABC, the accused threatened to kill the Victim Girl ABC in case she disclosed the incident therefore, there is possibility that the Victim Girl ABC was frightened and not disclosed the incident to her parents. The Victim Girl ABC since her statement recorded

under Sections 161, 164 of the Cr. PC and before the Court consistent with her version that the accused threatened to kill her in case she disclosed the incident to her parents. This explanation given by the Victim Girl ABC appears to me satisfactorily therefore, it cannot be said that delay in lodging FIR is fatal to the prosecution. Hence, submission of Ld. Advocate for the accused that the delay in lodging FIR doubts the prosecution case does not appears to me believable.

70] The next submission of Ld. Advocate for the accused is that the prosecution has not proved the muster book nor examined Kiran Patil, Manager of the Devrai Farm to prove that the mother of the Victim Girl ABC was working there and at the relevant time the Victim Girl ABC has access in the said Farm. For that purpose she relied on the case law *Ishwar Singh cited (Supra)*.

71] Upon perusal of of the record, it appears that the prosecution has produced copies of muster book but has not examined person who has prepared the muster book even the signature of person who prepared it has not been appearing thereon. Therefore, muster book cannot be taken into consideration to prove that the mother of the Victim Girl ABC was working there.

72] In this case, PW1 admitted that Kiran Patil was the manager of the Devrai Farm. The prosecution has not examined him. The accused has examined his wife to show that the

mother of the Victim Girl ABC never worked at Devrai Farm nor the Victim Girl ABC at any time came in Devrai Farm. But it is necessary to mention here that the defence in the cross-examination of PW1 asked question that the area of Devrai Farm is large, many persons were working there, they were getting salary, she was also getting salary, several months her name has been recorded in muster book and she worked there till Diwali, 2018. It has been suggested to PW1 that she thought that the accused would have lodged complaint against her therefore, she was removed from the work. It has been also asked to her that after she joined work, thereafter the accused started working there.

73] From all the questions asked in the cross-examination of PW1, it can be said that the defence has admitted that till Diwali 2018 mother of the Victim Girl ABC worked in Devrai Farm. Not only that in the cross-examination of Victim Girl ABC (PW2), it has been asked by the defence counsel that during the period of holidays the Victim Girl ABC used to go in Devrai Farm to help her mother and she was helping her mother in cooking. From this admission also it has brought on record that the mother of the Victim Girl ABC was working in Devrai Farm till Diwali 2018. Therefore, even though the prosecution has not proved the muster book or not examined Kiran Patil, manager then also from the cross-examination of PW1 and PW2, the defence itself has brought on record that the complainant PW1 was going in Devrai Farm till 2018 to work as a cook and the Victim Girl ABC was going thereto help her mother in cooking.

Therefore, the prosecution has proved that the mother of the Victim Girl ABC was working at Devrai Farm.

74] I have gone through the case law of *Ishwar Singh cited (Supra)*. In that case law, it has been held that non-examination of witness for unfolding prosecution acquire a special significance in view of discrepancy between the FIR and the revision of the occurrence given by the prosecution case. But in the case in hand, from the cross-examination of PW1 & PW2 itself it is brought on record that complainant worked there till Diwali of 2018 therefore, with due respect to the said case law, it is not acceptable to the present case.

75] So far as regards the access of Victim Girl ABC in Devrai Farm is considered. Upon perusal of examination-in-chief of Victim Girl ABC (PW2), she stated that on that particular day her grandmother came to the house therefore, she went to Devrai Farm to inform her mother and after informing her mother she was returning back to her home. She also stated this fact in her statement recorded U/s. 164 of the Cr. PC. Upon perusal of her entire cross-examination it appears that the defence has not challenged the above evidence of the Victim Girl ABC and it remains unchallenged.

76] Further, from her cross-examination itself has brought on record that the Victim Girl ABC was going to Devrai Farm during the period of holidays to help her mother. Therefore, from the unchallenged evidence of Victim Girl ABC it is proved

by the prosecution that on that particular day grandmother of the Victim Girl ABC came to the house therefore, she went to Devrai Farm to inform her mother. Hence, submission of Ld. Advocate for the accused that the prosecution has failed to prove that the mother of the Victim Girl ABC was working in Devrai Farm and also failed to prove that the Victim Girl ABC has access in the said Farm is not acceptable.

77] Ld. Advocate for the accused in her arguments invited my attention towards the spot panchnama and submitted that the Map shown in the spot panchnama shows that there are number of doors and windows but the Victim Girl ABC has not stated that the accused closed the doors and windows of the Darbar Hall of Devrai Farm. According to her, such act committed in secrecy and there is no evidence that the doors and windows of the said Darbar Hall have been closed by the accused.

78] I have gone through the spot panchnama (Exh.29) in column No.9 the sketch of place of occurrence has been shown. Upon perusal of that sketch, it appears that there are only two windows and two doors. The Victim Girl ABC is hardly 13 years of age. According to her, the accused took her in Darbar Hall and gagged her mouth. Under such circumstances, the Victim Girl ABC would have been frightened. It cannot be said that in frightened condition the Victim Girl ABC would have seen whether the doors and windows were closed or not. But it is the fact on record that the visitors used to visit Darbar Hall in

season. Therefore, when many visitors came to the Darbar Hall of Devrai Farm that time only the Darbar hall would have kept open. Upon perusal of the said sketch there were in all 17 beds were kept. From the beds kept thereon, it appears that it would have been used for sleeping therefore, it cannot be said that it would have been kept open only at the night time. Mere fact that the Victim Girl ABC has not stated that the doors and windows were closed by the accused that does not mean that no such incident taken place. Therefore, this submission of the Ld. Advocate for the accused is not acceptable.

79] The Ld. Advocate for the accused in her arguments submitted that the evidence of PW4 cannot be taken into consideration. According to her, the prosecution has not brought on record whether the pregnancy was terminated or delivery was taken place.

80] I have gone through the evidence of PW4, it appears from his evidence that he is qualified as a BAMS. He specifically stated that he conducted urine pregnancy test. No doubt he has not brought any of the documents but it is the fact on record that PW1 stated that she took the Victim Girl ABC to the hospital of Dr. Patil. He informed that the Victim Girl ABC is pregnant. This part of her evidence has not been challenged. Further, the Victim Girl ABC also stated that her mother took her to the Dr. Patil hospital and there, she was told that she is pregnant. This evidence also not been challenged.

81] Thus, from the unchallenged testimony of PW1 and PW2, it has been brought on record that PW4 examined the Victim Girl ABC and told that she is pregnant. Therefore, the fact that the Victim Girl ABC was pregnant has been brought on record. Further, the Medical Officer PW8 also stated that the Victim Girl ABC was pregnant of 19 weeks. This part also has not been challenged. Therefore, evidence of PW1 & PW2 is corroborated by the evidence of PW8 that the Victim Girl ABC was pregnant.

82] So far as regards the question of whether her pregnancy terminated or delivery was taken place. PW8 has specifically stated that the pregnancy of the Victim Girl ABC has been terminated and this has not been challenged. Therefore, it has brought on record that the pregnancy of the Victim Girl ABC was terminated.

83] In respect of DNA report, the Ld. Advocate for the accused invited my attention towards the letters issued by the Investigating Officer to Forensic Laboratory and submitted that though the two DNA kits have been demanded but there is no evidence that the Investigating Officer received two DNA Kits. She further submitted that the prosecution has not proved the chain of the custody of the samples. The Investigating Officer has not followed the proper procedure for collection of the samples and preservation. The DNA kit number is not mentioned in the report therefore, according to her, the DNA report is not reliable. She invited my attention towards the case

law of *Kattavellai @ Devakar Vs. The State of Tamilnadu*, AIR *OnLine 2025 SC 667* and submitted that the mandatory procedure has not been followed.

84] So far as regards the submission of Ld. Advocate for the accused in respect of 2 DNA kits is concerned. It is necessary to mention here that the prosecution has examined C.A.-PW10. In his cross-examination taken by the defence counsel, he stated that the DAN kits are to be provided by the FSL. He further stated that he has verified the DNA kits number which were given to the Investigating Officer by their office with the DNA kits received to him. Thus, from the cross-examination of PW10 has brought on record that the Investigating Officer received 2 DNA kits from the FSL and blood samples of Victim Girl ABC and accused were given in the DNA kits. Therefore, the submission of Ld. Advocate for the accused that there is no evidence about the receipt of DNA kits is not acceptable.

85] The next submission is as regards the collection and preservation of the samples and carrying the samples to FSL. PW6- Investigating Officer in his evidence stated that he gave letter to Medical Officer, Bhor for collection of DNA samples of the accused and sent the samples through carrier namely Shaikh. He stated said that on 05/04/2019, he gave letter to Medical Officer of Sasoon Hospital for collection of DNA samples of the Victim Girl ABC and fetus and sent it to the FSL. His cross-examination on this point is simply that of denial.

86] Upon perusal of letter (Exh.42), it seems that this letter has been issued by the Investigating Officer-PW6 to PW12 for extracting the DNA samples of the accused. The letter is of dated 02/04/2019. The prosecution has examined Medical Officer-PW12 Bhagyashri Patil who has examined the accused and extracted DNA samples of the accused. Her evidence shows that she also filled the Form and gave all the samples to Investigating officer. In the cross-examination by the defence counsel, it is suggested to her that DNA kit number, name of the accused, photograph and identification documents has not been kept in the office. She further stated that there is no procedure. Thus, from this suggestion it is brought on record that the DNA kit was provided, DNA samples were extracted in DNA kit, PW12 filled the Form and other documents and gave it to Investigating Officer. That means, the proper procedure for collection of samples and sealing of all the samples have been followed by PW12.

87] Further, Exh.43 is the letter issued by the Investigating Officer to FSL for preservation of sample of the accused. The said letter is of dated 02/04/2019, it was given on the same day to the FSL. PW9 specifically stated that on 03/04/2019, he has carried the DNA samples of the accused in ice-box to FSL and deposited the same. The letter also bears acknowledgment of concerned clerk of the FSL. The evidence of PW9 that he has carried the DNA samples in ice-box to FSL is not challenged. Therefore, it can be said that from the collection of DNA samples of the accused on 02/04/2019 till it was sent to

the FSL on 03/04/2019 same was kept in ice-box and same ice-box has been carried by PW9 to the FSL. Therefore, from the evidence of PW6, PW9 & PW12, it has brought on record that the PW12 extracted the DNA samples of the accused in DNA kit, gave it to the Investigating Officer, the Investigating Officer kept it in ice-box in proper custody and thereafter, sent the ice-box to FSL. Therefore, the proper procedure for collection of blood samples of the accused preservation and carrying the said samples to FSL has been followed.

88] Then coming to the procedure to follow by the Medical Officer and procedure for preservation of the samples in respect of the Victim Girl ABC and her fetus is concerned. There is evidence of PW6, he stated that on 05/04/2019, he gave letter (Exh.45) to the Medical Officer of Sasoon Hospital for extracting the DNA samples of the Victim Girl ABC and her fetus. PW5 is the Medical Officer. He has conducted postmortem on the baby of the Victim Girl ABC. His evidence shows that he has taken piece of femur bone of the baby of the Victim Girl ABC in a bottle, packed it, sealed it, labeled it and handed over to the Investigating Officer. PW8 categorically stated that he has carried the DNA samples and other samples of the Victim Girl ABC to FSL. PW9 has extracted the blood samples of the Victim Girl ABC, given it to the on duty police constable. In the cross-examination of PW9, it has been asked that both the samples bears seal of the Medical Officer of the Sasoon Hospital. Thus, from the cross-examination of PW9 it has brought on record that both the samples were in sealed condition till it has been carried

to FSL and the seal was of that of Medical Officer of Sasoon Hospital. That means, the proper procedure for collecting the blood samples of the Victim Girl ABC and the accused in DNA kits has been followed and samples of femur bone of the child of the Victim Girl ABC was taken in bottle and that was also sent to FSL. Further, PW10 after verifying DNA Kit number has analyzed samples and given opinion. Therefore, in my opinion the proper procedure for collection, preservation and sending the samples of FSL has been followed and there is no reason to disbelieve the evidence of PW10. Hence, submission of Ld. Advocate for the accused in that regard is not acceptable.

89] I have gone through the case law of ***Kattavellai @ Devakar Vs. The State of Tamilnadu, AIR OnLine 2025 SC 667.*** In that case law, the Medial Officer though stated that the samples were sent to FSL but in her cross-examination stated that she 'might have' handed over the said swabs to the constable on duty and it did not mention of having received the swabs. It appears that in that case, the samples were sent to the FSL after unexplained delay of 41 days and the DNA report did not mention when the samples were received to them. But in the case in hand, the samples of the accused received on 02/04/2019, deposited on 03/04/2019 and the samples of the Victim Girl ABC and her fetus was taken on 05/04/2019 and they were deposited on 08/04/2019. There is no inordinate delay in sending the samples to FSL. Further, the DNA report (Exh.50) shows about the receipt of samples on 02/04/2019 and on 08/04/2019. The evidence of PW10 shows that the DNA

samples of the blood of the Victim Girl ABC and femur bone of the baby of Victim Girl ABC and blood samples of the accused were received to him. The reports specifically stated that on which date samples were received.

90] Further, the Ld. Advocate for the accused invited my attention towards para No. 'M' of the said judgment. In that para the Hon'ble Apex Court has given procedure to be followed in case of DNA evidence by the Investigating Officer. That certain directions were given to the Investigating Officer in 2025. But present case is that of 2019 and in my opinion the directions will be applicable prospectively and not retrospectively. Therefore, with due respect the above case law, in my opinion ratio laid down in said case law is not applicable to the present case. Therefore, the submission of Ld. Advocate for the accused is not acceptable.

91] Ld. Advocate for the accused relied on the case law of ***State of Rajasthan through Public Prosecutor cited (Supra)***. In that case, Victim Girl ABC was hostile but DNA was positive, it has been held that a person cannot be convicted solely on the basis of DNA report and the same cannot be treated as corroborative piece of evidence but in the case in hand Victim Girl ABC has fully supported prosecution case. Her evidence is corroborated by the medical evidence.

92] Ld. Advocate for the accused also relied on the case law of ***Deelip Tatoba Raje cited (Supra)***. In that case, Victim

has not supported prosecution case and the accused was convicted by the trial Court. It has been held that in absence of substantive evidence, the accused cannot be convicted, considering admitted medical case papers, observation in bail order and evidence of Ld. JMFC who has recorded statement under Section 164 of the Cr. PC. But in the case in hand, Victim fully supported to the prosecution and her evidence is corroborated by medical evidence therefore, with due respect to the above cited case law in my opinion they are not applicable to the present case.

93] Thus, in the case in hand, the Victim Girl ABC PW2 since her statement recorded by the police under Section 161 of the Cr. PC and medical history given to the Medical Officer and in the statement recorded under Section 164 of the Cr. PC and thereafter, before the Court is consistent with her version that on one day, her grandmother came to the house therefore, she went to inform this to her mother and after informing to her mother, she was returning to the home that time the accused took her in Darbar Hall of the Devrai Farm, gagged her mouth, removed his clothes and also removed her clothes and established forceful physical relation with the Victim Girl ABC and also threatened to kill her. There is no omission, contradiction in her evidence. Therefore, her evidence is reliable. Moreover, her evidence is supported by the evidence of PW4 and PW8-Medical Officer. Further, in this case by examining the C.A., the prosecution has proved that the opinion given by the C.A. is that the Victim Girl ABC and accused were concluded to be biological parents of the

fetus of the Victim Girl ABC.

94] Thus, the prosecution has proved that the foundational that the accused has established forceful physical relation with the Victim Girl ABC who is under 16 years of age and made her pregnant. Therefore, in view of Section 29 of the POCSO Act, 2012, it is for the accused to rebut the presumption. Upon perusal of cross-examination of the prosecution witnesses as well as from the evidence of the witnesses, it appears that the defence of the accused is that the mother of the Victim Girl ABC thought that the accused would have lodged the complaint against her therefore, she was removed from the work. But this defence is vague defence. Even the accused in his statement recoded under Section 313 of the Cr. PC has not uttered a single word that he made the complaint against PW1 therefore, false case is lodged. This defence of the accused is without any base. Therefore, the same does not appear to me probable defence.

95] The next defence of the accused is that the mother of the Victim Girl ABC and the Victim Girl ABC never came to Devrai Farm but from the cross-examination of PW1 & PW2 it has already brought on record that PW1 was working in Devrai Farm and on that particular day the Victim Girl ABC went to inform her mother about arrival of her grandmother. Therefore, the evidence of DW1 who is the wife of accused that she never seen the mother of the Victim Girl ABC and the Victim Girl ABC at any time in Devrai Farm does not appear to be believable and reliable. Therefore, this defence also does not appear to me

probable defence. Therefore, the accused has failed to rebut the presumption raised under Section 29 of the POCSO Act, 2012.

96] Then there is another presumption under Section 30 of the POCSO Act, 2012, it is in respect of the culpable mental state (intention, knowledge or belief) of the accused. In the case in hand, from the evidence, it has brought on record that the Victim Girl ABC was returning from the Devrai Farm, the accused caught her hand and took her in a Darbar Hall. This act of the accused can be said that with intention to commit sexual intercourse with the Victim Girl ABC and he took her in a room. Further, as per the evidence of PW2, the accused removed her clothes and also removed his clothes this can be said that the accused has made preparation to commit sexual intercourse with the Victim Girl ABC. Thus, it has brought on record that accused with an intention to commit the offence of rape did all these acts with the Victim Girl ABC. Therefore, accused has not also rebutted the presumption raised under Section 30 of the POCSO Act, 2012.

97] In the case in hand, while discussing Point No.1, I have held that the prosecution has proved that the Victim Girl ABC as on the date of incident was below 16 years of age and while discussing Point Nos.2 to 4. I have held that the prosecution has proved that the accused has established forceful physical relation with the Victim Girl ABC and made her pregnant.

98] Further, the Victim Girl ABC stated that the accused threatened to kill her in case she disclosed the said incident to anybody. This part of her evidence of the Victim Girl ABC and her mother appears to me reliable. Therefore, ingredients of Section 506 of the IPC are also proved by the prosecution. Hence, the prosecution has proved the offences under Sections 376(3), 506 of the IPC and offences punishable under Sections 4, 6 of the POCSO Act, 2012 against the accused beyond reasonable doubt. Therefore, the accused is held guilty for the offences punishable under Sections 376(3), 506 of IPC and U/s. 4, 6 of the POCSO Act, 2012. Hence, I answer to Point Nos.2 to 5 in the affirmative.

99] As I have held the accused is guilty of having committed for the offences punishable under Sections 376(3), 506 of IPC and U/s. 4, 6 of the POCSO Act, 2012. I took pause to hear the accused on the point of sentence.

Place - Pune
Date – 25/02/2026

(Sucheta M. Takalikar)
Special Judge, Pune.

100] I have heard accused on the point of sentence. He submitted that he does not want to say anything on the point of sentence.

101] Ld. Advocate for the accused submitted that minimum sentence be awarded.

102] Ld. APP submitted that the offence is heinous and

maximum punishment be awarded otherwise wrong message would go to the society and the Victim Girl ABC so small. Hence, submitted that maximum punishment be awarded.

103] I have held the accused guilty U/s. 376(3) of the IPC and Section 4 & 6 of the POCSO Act. In view of Section 42 of the POCSO Act, 2012 where an act or omission constitute an offence punishable under this Act and also U/s. 376 of the IPC then notwithstanding anything contained in any law for the time being enforce, the offender found guilty of such offence shall be liable to punishment under this Act or under the IPC as provides for punishment which is greater in degree.

104] The offence punishable under Section 376(3) of the IPC prescribes punishment of rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine. This amendment in the punishment provided under Section 376(3) of the IPC has come into force w.e.f. 21/04/2018. Section 6 of the POCSO Act, 2012 is aggravated form of Section 4 of the POCSO Act, 2012. Section 6 of the POCSO Act, 2012 provides punishment with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death. However, this amendment in punishment came into force with

effect from 16/08/2019. Prior to that the punishment provided under Section 6 of the POCSO Act was with rigorous imprisonment which shall not be less than ten years but which may extent to imprisonment for life and shall also be liable to fine. Therefore, the punishment provided under Section 376(3) of the IPC is greater in degree than the punishment provided under Section 6 of the POCSO Act before amendment. Therefore, the accused is liable to be punished under Section 376(3) of the IPC.

105] Considering the nature of the offence and considering the age of the Victim Girl ABC as well as considering the fact that since his arrest the accused is in jail he has no criminal antecedents. No complaint has been received about the misbehavior of the accused from the jail authority therefore, in my opinion following sentence would meet the ends of justice. Hence, I proceed to pass the following order:

ORDER

- 1) The **accused namely - Bajrang Ramchandra Khopde** is held guilty for the offence punishable under Sections **376(3), 506** of the Indian Penal Code, 1860 and Sections 4 & 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
- 2) The accused **Bajrang Ramchandra Khopde** is convicted vide Section 235(2) of the Code of Criminal Procedure, 1973 for the offence punishable under Section **376(3)** of the Indian Penal Code and he is sentenced to suffer **rigorous imprisonment of 20 years (Twenty years)** and to pay fine amount of **Rs.10,000/-**

(Rs. Ten thousands only), in default, he has to **suffer rigorous imprisonment for 'Six' months.**

- 3) The accused is further convicted vide Section 235(2) of the Code of Criminal Procedure, 1973 for the offence defined under Section 506 of the Indian Penal Code and he is sentenced to suffer **rigorous imprisonment of 1 year (One year)** and to pay fine amount of **Rs.1,000/-** (Rs. One thousand only), in default, he has to **suffer rigorous imprisonment for 'One' month.**
- 4) The accused is further **convicted** vide Section 235(2) of the Code of Criminal Procedure, 1973 for the offence defined under Sections 4 & 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 **but he is not liable to be punished by imposing separate sentence in view of Section 42 the POCSO Act, 2012.**
- 5) The accused is entitled for Set-off under Section **428** of the Code of Criminal Procedure, 1973 for the period which he has already undergone in Jail.
- 6) **All the above sentences shall run concurrently.**
- 7) On payment of total fine amount or recovery of fine amount as the case may be, amount **Rs.10,000/-** (Rs. Ten Thousands only) be paid to Victim Girl ABC as compensation in view of Section 357 (1)(b) of the Code of Criminal Procedure, 1973 after appeal period is over.
- 8) Remaining fine amount **Rs.1,000/-** (Rs. One Thousand only) be credited to the government after appeal period is over.
- 9) District Legal Services Authority, District Court, Pune to provide compensation to victim as per rules.
- 10) The copy of this judgment be provided to

accused free of costs as per Section 363(1) of the
Code of Criminal Procedure, 1973

- 11) The accused is made aware about his right of appeal before Hon'ble High Court against the judgment passed by this Court.
- 12) Special (POCSO) Case No. 248/2019 is disposed of accordingly.

(Dictated and pronounced in open Court in presence of Ld. APP, Accused and Ld. Advocate for the accused.)

Place - Pune
Date : 25/02/2026.

(Sucheta M. Takalikar)
Special Judge (Under POCSO Act) &
Additional Sessions Judge, Pune

CERTIFICATE

“I affirms that the contents of this PDF file Judgment/
Order are same word to word as per the original.”

Name of the Steno :— K.S. Chavan (Stenographer Grade I)

Name of the Court :— Sucheta M. Takalikar
District Judge 8 and Special &
Additional Sessions Judge, Pune.

Date of Order : 25/02/2026
Order signed by PO on : 25/02/2026
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