



Presented on : 01/08/2017
 Registered on : 01/08/2017
 Decided on : 07/01/2020
 Duration : 02Ys.05Ms.06Ds.

IN THE COURT OF SESSIONS JUDGE, PUNE
 (Presided over by M. R. Purwar, Addl. Sessions Judge, Pune)

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Spl. (POCSO) Case No. 352/2017
[CNR No. : MHPU010094542017]

Exh. No.

State of Maharashtra,
 Through P.S.O. Hadapsar
 Police Station, Pune.

... **Prosecution.**

Versus

Dashrath Tukaram Rane
 Age – 21 years, Occu – Painting work,
 R/at –In the room of Dnyanoba Dhavale,
 Kamathe Aali, Near Ganpati Mandir,
 Phursungi Gaon, Hadapsar, Pune
 Originally R/at : At Post Vit, Barde Vasti,
 Tal-Karmala, Dist-Solapur

... **Accused.**

Offence punishable under section 363, 376(2)(n) of Indian Penal Code and section 3, 5(1), 11 punishable under sections 4,6,12 of Protection of Children from Sexual Offences Act.

 Shri N.D. Patil, A.P.P. for the State.
 Shri R.B. Patil, advocate for accused.

J U D G M E N T

(Delivered on 7th January, 2020.)

Accused is facing trial for the offence punishable under sections 363,376(2)(n) of Indian Penal Code and sections 3,5(1),11 punishable under section 4,6,12 of Protection of Children from Sexual Offences Act, 2012.

2] In short, it is the case of the prosecution that victim is a minor girl and daughter of informant. On 30-04-2017 informant lodged the report to the effect that on 29-04-2017 victim had been to her school, however, has not come back. Some unknown person has kidnapped her. Thus, initially Crime No. 419/2017 for the offence punishable under section 363 of Indian Penal Code came to be registered with Hadapsar Police Station, Pune.

3] During investigation the statements of the witnesses were recorded. The accused and victim were apprehended. The statement of the victim was recorded. Spot panchanama was prepared. Victim was medically examined. Cloths were seized. Medical report was collected. Further offences were added. Seized muddemal was forwarded for chemical examination. On completion of investigation charge-sheet came to be forwarded before the Special Court, Pune. It was then assigned to this Court for trial.

4] Charge Exh. 02 for the offence punishable under sections 363, 376(2)(n) of Indian Penal Code r/w section 3,5(l),11 punishable under section 4,6,12 of the Protection of Children from Sexual Offences Act, 2012 came to be framed against the accused. Charge read over and explained to the accused in vernacular to which he pleaded not guilty and claimed to be tried.

5] The following points arise for determination and the findings are recorded for the reasons given below-

<u>Sr.No</u>	<u>Points</u>	<u>Findings</u>
1]	Whether the prosecution proves that 29-04-2016 at about 07.00 hours from the residential house situated at Pawar Aali, Phursungi, Tal-Haveli, Dist-Pune accused kidnapped minor victim girl from the lawful guardianship without consent ?	 No.
2]	Whether the prosecution proves that from 29-04-2017 to 05-05-2017 at different places including a hut situated in the field of Tanaji Shikre at Post Chopdi, Tal-Radhanagari, Dist-Kolhapur accused repeatedly committed rape on minor victim girl ?	 No.
3]	Whether the prosecution proves that from 29-04-2017 to 05-05-2017 at different places including a hut situated in the field of Tanaji Shikre at Post Chopdi, Tal-Radhanagari, Dist-Kolhapur accused committed penetrative sexual assault on minor victim girl ?	 No.
4]	Whether the prosecution proves that from 29-04-2017 to 05-05-2017 at different places including a hut situated in the field of Tanaji Shikre at Post Chopdi, Tal-Radhanagari, Dist-Kolhapur accused committed aggravated penetrative sexual assault on minor victim girl ?	 No.
5]	Whether the prosecution proves that Whether the prosecution proves that from 29-04-2017 to 05-05-2017 at different places including a hut situated in the field of Tanaji Shikre at Post Chopdi, Tal-Radhanagari, Dist-Kolhapur accused committed sexual harassment upon victim, a minor victim girl by making certain gestures ?	No.
6]	What order?	...As per final order.

REASONS**As to Point No. 1 to 6:-**

6] Name of the victim and her relatives i.e. their identity is not disclosed in view of the directions of Hon'ble Apex Court in **Writ Petition (Civil) No. 565/2012 dated 11/12/2018.**

7] In order to substantiate the accusation, the prosecution inter alia examined as many as four witnesses i.e. P.W. 1 Informant and mother of Victim is at Exh-9, P.W.2 Victim is at Exh-12, P.W. 3 ASI Pratap Doiphode is at Exh-20 and P.W.4 PSI Rupali Pawar is at Exh-21. Besides, the prosecution has also produced certain documents namely- Report Exh-10, Printed FIR Exh-11, Report about addition of offence Exh-22, Seizure Panchanamas Exh-24 & 25, Spot Panchanama Exh-26 and Letter to CA Exh-27. The prosecution has closed evidence by pursis Exh. 28. The defence has not adduced defence evidence. The defence of the accused is of total denial and false implication, which I came to know from the line of cross examination and the answers given under section 313 of Code of Criminal Procedure. Heard learned Additional Public Prosecutor for the prosecution and learned defence counsel and perused material.

8] It has come in the evidence of P.W.1 Informant/Mother of victim that in the year 2017, victim was 17 years old and taking education. Victim had been out of the house for the result of 11th std. however, has not come back. She proved missing report Exh-10. In cross she admits that she do not know who kidnapped the victim. P.W. 2 Victim on the other hand also testified her age as 17 years but

denied happening of the incident. Nothing brought on record during cross of victim by learned Additional Public Prosecutor. P.W. 3 ASI Doiphode and P.W.4 PSI Pawar did the investigation. Their evidence is not much helpful on the point of incidence.

9] This much is the evidence available on record. In view of the reasons referred above, it is crystal clear that the prosecution has failed to establish guilt of accused. Thus, I answer Point No. 1 to 5 in the negative and Point No. 6 accordingly. Hence, the following order.

ORDER

- 1) Accused is acquitted of the offence punishable under sections 363, 376(2)(n) of Indian Penal Code and sections 3, 5(l), 11 punishable under section 4, 6, 12 of the Protection of Children from Sexual Offences Act vide section 235 (1) of Code of Criminal Procedure.
- 2) Seized cloths be destroyed after period of appeal is over.
- 3) The bail bond of accused shall remain in force and effective for next six months as per the provisions of Section 437-A of Code of Criminal Procedure.

[Dictated and pronounced in open Court.]

Pune
Dt.-07/01/2020

(M. R. Purwar)
Addl. Sessions Judge, Pune

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the assigned Judgment.

Name of stenographer	:	M.R. Saptarshi, Steno (Grade 1)
Court	:	Shri M.R. Purwar Addl. Sessions Judge Pune
Date	:	07/01/2020
Judgment signed by the Presiding Officer on	:	07/01/2020
Judgment uploaded on	:	07/01/2020

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