

MHKO01-008372-2018



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**IN THE COURT OF SPECIAL JUDGE, PUNE, AT
PUNE**

(Presided over by **Shyam C. Chandak** – Special Judge)

**Special Case No.266/2018
Exh.No.58.**

(FIR No. 177/2015 at
Sinhgad Road Police Station,
District : Pune.)

Complainant	The State of Maharashtra,
Represented By	Shri. Milind Datrang, Spl. Public Prosecutor, for the State.
Accused	1-Anant Vyankatrao Patil Age : 48 Yrs., Occu. Agriculturist, R/o.C-1/503, Ganga Bhagyoday Hsg. Soc. Sinhgad Road, Pune. 2-Sou. Sujata Anant Patil Age 38 Yrs., Occ. Housewife, R/o.C-1/503, Ganga Bhagyoday Hsg. Soc. Sinhgad Road, Pune.
Represented By	Shri. Sanjay G. Dalvi, Learned Advocate.

Date of offence	20/04/2015
Date of FIR	22/04/2015
Date of Chargesheet	27/03/2017
Date of Framing of Charges	11/11/2021
Date of commencement of evidence	05/09/2022

Spl.Case No. 266/2018 (J)

Date on which judgment is reserved	14/03/2023
Date of the Judgment	29/03/2023
Date of the Sentencing Order, if any.	29/03/2023

Accused Details

Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1-Anant Vyankatrao Patil 2- Sou. Sujata Anantrao Patil	21/07/15	21/07/15	U/Secs. 354, 354A (ii) 509, 323, 504 r/w 34 of the IPC & u/Sec. 11(i) (iv) r/w 12 of the POCSO Act.	Only Accused No.1 convicted under Section 323 of the IPC.	N.A.

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW1	Victim	18	The victim
PW2	Victim's mother	30	Victim's mother
PW3	Ratnadeep Ambadas Gaikwad	37	Second I. O.
PW4	Dattatraya Ramrao Pawar	39	First I.O.

A. Prosecution exhibits:

Sr. No.	Exh. Nos.	Description.
1	28	FIR
2	29	Printed FIR
3	13	Spot panchanama (admitted by defence)

– J U D G M E N T –
(Delivered on 29th March, 2023.)

The facts of the prosecution case are as under-

That on 20.04.2015, at about 07.00 p.m., the victim, aged 15 years, residing at XYZ Apartment, Sinhgad Road, Pune, (PW1) and her friend were going to bring vegetables. At that time, cousin of the victim (maternal uncle's son) was playing in the garden of the apartment. Accused No.1 was also present there. Seeing the victim, accused No.1 passed a comment as “अरे इथे तर सारस बागच आहे, पण आमचाच चान्स नाही लागत.” On this, the victim asked accused No.1, “*What happened, what is the problem with you.*” So, instead of talking with the victim, accused No.1 asked her friend as, “*who are you, how did you come here*”. Then, accused No.1 called the watchman and instructed him to drive the victim's friend out of the society premises. So, the watchman caught hold the hand of victim's friend and started to withdraw him. At this juncture, the victim requested accused No.1 not to do so. On this, accused No.1 threatened that “*if he comes here again, then we will beat him*”. Meanwhile, the victim told her cousin to call her mother. Then, the victim's mother and maternal uncle came down. The victim's mother inquired with accused No.1 about the above episode. But accused No.1 abused her. So, the maternal uncle tried to give an understanding to accused No.1 but the later started abusing and beating the maternal uncle. Then, the dispute escalated so much that accused No.1 assaulted the victim's mother and her maternal uncle by hand.

2- It is alleged that, on 3-4 times earlier, while the victim was alone in the lift, accused No.1 talked to her in obscene manner as “तु माझी बायको घरी नसताना रात्री ये, आपण रात्री एकत्र राहु मग तुला कोणी त्रास नाही देणार.”The victim complained about this to her mother. Similarly, when the victim was passing in presence of accused No.1, he used to pass obscene comments by looking at her with an evil eye. Therefore, the victim lodged the FIR, which the Police Station regd. at Crime No.177/2015 for the offences punishable under Sections 509, 323 and 504 of the IPC. Meanwhile, the victim’s mother lodged one N.C. report on 20.4.2015 in respect of the same incident and so, she was referred for medical. Thereafter, the I.O. visited the spot and recorded the Spot Panchanama, recorded the statement of the victim, other witnesses and collected the birth certificate of the victim etc.

3- Investigation revealed that accused No.1 uttered obscene words with sexual intent to insult the modesty of the victim, passed obscene comments by looking at the victim with an evil eye and sexually harassed the victim etc. Accused No.1 intentionally insulted the victim’s mother and maternal uncle with an intent to provoke them to break public peace or to commit any other offence. Accused No.1, his wife accused No.2 and one unknown boy in furtherance of their common intention voluntarily caused hurt to them. Last; accused No.1 outraged the modesty of victim’s mother by pulling her towards him. Hence, the charge-sheet came to be submitted against them for the offence punishable

u/Secs.354, 354A (ii), 509, 323, 504, r/w 34 of the IPC and u/Sec.11 (vi) r/w 12 of the POCSO Act.

4- The then Ld. Predecessor of this Court framed the Charge (Exh.10), to which the accused denied and claimed to be tried. Defence of the accused is of denial and false implication. Then prosecution examined its witnesses. Statement of the accused u/Sec.313 of the Code of Criminal Procedure are recorded (Exh.41 and 42).

5- Heard, Shri. Milind Datrange, learned A.P.P. for the State and Shri. Sanjay Dalvi, learned advocate for accused.

6- Following points arise for determination. My finding on each point is as under for reasons given below:

Sr. No.	Points	Findings
1.	Does the prosecution prove that on 20.04.2015, at about 7.00 p.m. at XYZ society, Sinhgad road, Pune, accused No.1 made demand for sexual favour to the victim saying as “अरे इथे तर सारस बागच आहे, पण आमचाच चान्स नाही लागत.”and thereby committed an offence u/Sec.354-A (1) (ii) of the IPC?	Not proved.
2.	Does the prosecution prove that on the aforesaid date, at time and place accused No.1 uttered following words with sexual intent “अरे इथे तर सारस बागच आहे पण आमचाच चान्स नाही लागत” and “तु माझी बायको घरी नसताना रात्री ये, आपण रात्री एकत्र राहू मग तुला कोणी त्रास नाही देणार ” with intent that the victim should hear the same and repeatedly or constantly followed and watched at her with sexual intention and thereby committed an offence u/Sec.11, p/ u/s.12 of the POCSO Act?	Not proved

3.	Does the prosecution prove that on the aforesaid date, at time and place accused No.1 intending to insult the modesty of the victim, uttered the obscene words, “तु माझी बायको घरी नसताना रात्री ये, आपण रात्री एकत्र राहु मग तुला कोणी त्रास नाही देणार.” intending that the victim should hear the same and thereby committed an offence u/Sec. 509 of the IPC?	Not proved
4.	Does the prosecution prove that on the aforesaid date, at time and place the accused Nos.1 and 2 alongwith unknown person in furtherance of their common intention intentionally insulted to the victim’s mother and maternal uncle by using abusive language and thereby gave provocation intending or knowing it to be likely that such provocation will cause them to break the public peace or to commit any other offence and thereby committed an offence u/Sec.504 r/w 34 of the IPC?	Not proved
5.	Does the prosecution prove that on the aforesaid date, at time and place the accused Nos.1 and 2 alongwith one unknown person in furtherance of their common intention voluntarily caused hurt to the victim’s mother and maternal uncle by assaulting them with hand and thereby committed an offence u/Sec.323 r/w 34 of the IPC?	Proved against accused No.1 only.
6.	Does the prosecution prove that on the aforesaid date, at time and place the accused Nos.1 outraged the modesty of the victim’s mother and thereby committed an offence punishable u/Sec.354 of the IPC?	Not proved
7.	What order?	As per final order

Submissions

7- Shri Milind Datrange, the learned Spl.P.P. has vehemently submitted that there is consistent, sufficient, cogent and reliable evidence by the victim and her mother in respect of the incident. It has proved that accused No.1 repeatedly passed obscene comments by looking at the victim with sexual intent, intentionally insulted the victim by uttering obscene words to outrage her modesty and intentionally insulted her mother and maternal uncle to provoke them to break the public peace. Both the witnesses have categorically stated that the accused persons with one unknown boy have voluntarily assaulted the victim's mother and maternal uncle. Accused No.1 outraged the modesty of the victim's mother. There was a prompt NC complaint of the offence of assault and it was followed by a detailed FIR by the victim. There was no reason for the victim and her family to book the accused in a false prosecution. Thus, the prosecution has proved the charge levelled against the accused. Hence, the accused be convicted.

8- *Per contra*, Shri S.G.Dalvi, the learned advocate by written arguments (Exh.55) submitted that, the evidence on the point of age is not sufficient to hold that at the relevant time, the victim was a child below the age of 18 years.

9- It is submitted that, there is delay of 2 days in lodging the FIR. There is a material inconsistency in the FIR and the NC complaint. There is material contradiction in the version of the victim and her mother. The evidence of

the victim that, “Once the accused said her, *“you come to my house in the night, when my wife is not home, thereafter nobody will trouble you”*, is vague and not reliable. The victim has not informed the exact date and time when accused No.1 passed the obscene comments upon her when she used to go by lift. The obscene comments are not reproduced. The mother of the victim never objected to accused No.1 for he passed obscene comments upon the victim. Neither the victim nor her mother lodged a prompt FIR of such a bad conduct of accused No.1. The victim candidly admitted that nobody has taken objection to the entry of her friend in the society. They have no enmity with accused No.1. The accused has not objected any person visiting at her. Accused No.1 had no reason to expel her friend out. There was no reason for accused No.1 to ask her friend as to why he was there. The NC report was lodged very promptly, but it is absolutely silent about passing obscene comments at the victim and the cause of assaulting the mother and maternal uncle of the victim. There is no medical evidence showing that the mother of victim sustained injuries due to beating by the accused persons. There is no evidence of outraging the modesty of the mother of victim by accused No.1. No independent witness is examined by the prosecution. So also, the relevant CCTV footage is not produced on record to prove the alleged incident. Thus, the prosecution has failed to prove its case beyond a reasonable doubt. Hence, the accused are entitled for acquittal. Following Judgments

are relied to buttress the point of age. I have considered the same.

- (i) **Raju Sukhdeo Dabhade v. State of Maharashtra** [2018 O Supreme (Bom) 1996];
- (ii) **Ketan Sanjay Kokate v. State of Maharashtra** [2021 SCC OnLine Bom 6202].

- R E A S O N S -

As to Point Nos.1 to 3:

10- Considering the charge, first; it must be seen as to whether the victim (PW1) was a child below 18 years of age on the date of occurrence. As provided in Section 34, sub-Section (2) of the POCSO Act, *“If any question arises in any proceeding before the Special Court whether a person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person and it shall record in writing its reasons for such determination”*.

11- In this regard, evidence of the victim (PW1) and her mother (PW2) is that the victim (PW1) had answered the examination of Std.10th at the time of incident. The victim claims that her date of birth is 12.10.1999. The Principal of the school (PW5) has deposed that the victim left the school after passing Std.10th examination. In that regard, a School Leaving Certificate bearing No.1582 was prepared in duplicate (in carbon) and issued to the parents of the victim. As per the said School Leaving Certificate, the date of birth of the victim is 12.10.1999. On the basis of said School Leaving Certificate, the victim was admitted in the college of the same Society. The School Leaving Certificate

(Exh.53) is a copy of the original School Leaving Certificate No.1582, which is certified as true by the Principal of the College. She has deposed that signature of the victim on FIR (Exh.28) is matching with the signature present overleaf the carbon copy of School Leaving Certificate No.1582, available in the book No.16. (Photocopy of the carbon copy is marked at Exh.P-54/PW5).

12- The learned Spl.P.P. has submitted that the School Leaving Certificate (Exh.P-53&54/PW1) is a public document and it is relevant under Section 35 of the Indian Evidence Act, 1872. As held in the case of ***Birad Mal Singhavi v. Anand Purohit*** [AIR 1988 SC 1796], to render a document admissible under Section 35 of the Indian Evidence Act, 1872, three conditions must be satisfied. Firstly; the entry that is relied upon must be done in public or other official book, register or record. Secondly; it must be an entry stating the fact in issue or relevant fact. And thirdly; it must be made by a public servant in discharge of his official duty or any other person in performance of a duty specially enjoined by the law. All these three conditions are well satisfied in respect of the School Leaving Certificate (Exh.P-53&54/PW1). Therefore, it is dependable to conclude that the victim (PW1) was below the age of 18 years on the date of the incident.

13- The above conclusion is fortified by the Judgment in the case of ***Ketan Kokate*** (*Supra*) wherein Rule 12 (3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 was considered in the light of the Judgment in the case of ***Jarnail Singh v. State of***

Haryana [(2013) 7 SCC 263]. And in para 23, it is held that, “A plain reading of this Rule and the decision of the Apex Court in Jarnail Singh (supra) makes its abundantly clear that under Sub Rule (3) of Rule 12 the age of a child is ascertained by adopting the first available basis, out of a number of options postulated in the said Rule. From the options available under Rule 12(3), an option in the preceding clause will have over riding effect over an option in subsequent clause. Under Rule 12(3), date of birth recorded in matriculation (or equivalent) certificate of the concerned child, is the first option. In the absence of such certificate, Rule 12(3) envisages consideration of the date of birth recorded in the first attended school (other than a play school) and it is only in the absence of such certificate, the age can be proved by producing the birth certificate issued by a Corporation, or Municipal Authority or a Panchayat and in the absence of the above, by medical opinion”.

14- The School leaving Certificate was issued immediately within two months after passing the Std.10th by the victim (PW1). There was no reason for the school authorities to prepare a false document to secure a conviction against the accused. Nor it is the defence that the School Leaving Certificate is a false record.

15- The fact that victim (PW1) had answered the exam of Std.10th at the time of the incident, is not denied. Except a suggestion of denial, there is no challenge to the assertion by the victim (PW1) that her DoB is 12.10.1999. Her age 24 years as informed by the victim (PW1) on the

date of her evidence, is neither denied nor challenged in the cross-examination. The present case is 9 years old. On this premise also, the victim was just 15 years of age at the time of incident.

16- In view of the above discussion, I hold that the victim (PW1) was a child below the age of 18 years at the time of incident.

17- The prosecution case is mainly dependent upon the deposition of the victim (PW1) and her mother (PW2). Their testimony, more or less, is similar to the text of the FIR barring some mismatch.

18- Dattatraya Pawar (PW4), 1st I.O. deposed that during the investigation, he visited the spot of the offence and recorded the Spot Panchanama (Exh.13) On 03.05.2015, he recorded the statement of the victim (PW1) and her mother (PW2). Then he recorded the statement of other witnesses. He arrested the accused on 21.07.2015.

19- In the cross-examination of Dattatraya Pawar (PW4), it has come that mother of victim (PW2) had been to the police station on 20.04.2015. He cannot tell that the victim (PW1) had also been to the Police Station on that day. The statement of mother of victim (PW2) Was not recorded on 20.04.2015.

20- Ratnadeep Gaikwad (PW3) the 2nd I.O. stated that on 05.03.2017, he received the FIR and investigation papers of this crime for further investigation. He recorded supplementary statement of the witnesses and after completion of the investigation, he submitted the charge-sheet against the accused.

21- In the cross-examination of Ratnadeep Gaikwad (PW3), it has come that initially a non-cognizable offence was registered under Sections 509, 323 and 504 of the IPC, on the report by the victim's mother (PW2). On 04.05.2015, offences of Section 354-A of the IPC and Section 11 (vi) r/w 12 of the POCSO Act were added in the matter.

22- The evidence of the victim (PW1) is that when she saw accused No.1 he uttered the words “अरे इथे तर सारस बागच आहे, पण आमचाच चान्स नाही लागत.” This is very consistent with the FIR. Thereafter, immediately the victim went to accused No.1 and asked “what is your problem?”. Further, the victim (PW1) has deposed that instead of replying to her, accused No.1 asked her friend as “*who are you and how you come here*”. Then accused No.1 called the watchman and told him to expel her friend out of the society. So, the watchman caught hold the hand of her friend and was withdrawing him from there. The victim deposed that she told the accused not to expel her friend. So, accused No.1 said as, “*he should not come here again and I will see how he comes back*”. The victim deposed that then she asked her cousin to call her mother there. The victim and her mother testified that on the call by the victim's cousin, victim's mother (PW2) and maternal uncle came down. This evidence is also very consistent with the FIR. Nothing material has emerged in the cross-examination of both the witnesses to disbelieve the above incident. Without happening any incident with the victim (PW1), her mother (PW2) had no reason to come down.

That apart, the above evidence is also corroborated by the fact that immediately after the entire incident, the victim's mother (PW2) went to the Police Station and lodged the NC report, which is an admitted fact. Therefore, I hold that when the victim (PW1) saw the accused No.1, he uttered the words “अरे इथे तर सारस बागच आहे, पण आमचाच चान्स नाही लागत.”, then the victim (PW1) objected him for that, so, the accused No.1 caused the watchman to expel the victim's friend from the society, the victim (PW1) objected to that and then the victim's mother and maternal uncle came there; after getting the call from the victim (PW1).

23- But from mere use of the words “अरे इथे तर सारस बागच आहे, पण आमचाच चान्स नाही लागत.”, demand of sexual favour is not discernible. Similarly, how there was sexual intent behind uttering the said words, is not explained in the evidence. It is not the case that earlier also accused No.1 uttered such words looking at the victim (PW1). As alleged, the accused uttered the above words after looking at the victim (PW1), but she has not so specifically deposed.

24- As provided in Section 14 of the Indian Evidence Act, 1872, facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant. But considering the evidence of the victim (PW1), utterance of the above words seems a general disposition.

25- The prosecution alleged that, 3-4 times earlier, while the victim was alone in the lift, accused No.1 passed obscene comments at her as *“you come to my house in night, when my wife is not at home, thereafter nobody will trouble you”*. The victim complained about this to her mother.

26- But in this regard, the victim (PW1) has deposed that only once the accused said her as, *“you come to my house in the night, when my wife is not at home, thereafter nobody will trouble you”*. Yet, she has not informed the date and time when accused No.1 behaved with her so; with sexual intent and with intent to insult her modesty. There is no explanation as to why no prompt FIR was lodged of the said incident or conduct of the accused.

27- In the cross-examination, the victim (PW1) admitted that she had been to the Police Station with her mother on the day of incident. She told the Police; the entire incident that happened with her. But the photocopy of the NC report available on the record is also silent about such conduct of accused No.1, in the past. And no explanation is forthcoming for this. Similarly, it was alleged that when the victim was passing in presence of accused No.1, he used to pass obscene comments by looking at her with an evil eye. But in this regard, there is no whisper in the evidence of the victim (PW1). Therefore, it is risky to rely on the assertion by the victim (PW1) that when she was going from the elevator, the accused uttered or used to utter the above said obscene words with sexual intent and with intent to insult her modesty.

28- No doubt, as provided in Section 30 (1) and (2) of the POCSO Act, in any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. For the purpose of this Section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability. But this presumption cannot be invoked here for want of sufficient, cogent and reliable evidence, by the prosecution, as discussed above.

29- In view of the above discussion, I hold that charge of the offence of Sec.354 (1) (ii) and 509 of the IPC and Sec.11 (iv) p/u/s. 12 of the POSCO Act, is not made out. Hence, my finding on point Nos.1 to 3 is 'not proved'.

As to point Nos.4 to 6:

30- The prosecution case is that, when the mother and maternal uncle of the victim came down and enquired with accused No.1, first; the later abused them. Therefore, the accused is guilty of the offence u/Sec.509 of the IPC. But the exact abuses are neither informed in the FIR nor in the deposition of the victim (PW1) and her mother (PW2). Hence, I hold that the offence u/Sec. 504 of the IPC is not made out. Accordingly, my finding on point No.4 is 'not proved'.

31- The victim's mother (PW2), deposed that after getting a call from the victim, she along with her brother

came down. The victim told her as to what the accused did to her. Her brother tried to convince accused No.1. But accused No.1 assaulted her brother and her. The victim (PW1) deposed that after her mother and maternal uncle came down, there, an altercation took place between her mother, maternal uncle and accused No.1. Accused No.1 abused and assaulted to her mother and maternal uncle. This entire evidence by the victim and her mother is consistent with the FIR. Considering the prelude to the assault, it is highly probable that as accused No.1 tried to expel the victim's friend out, the victim's mother and maternal uncle enquired with him and therefore, an altercation took place between them and it escalated to the extent that accused No.1 assaulted by hand to the mother of the victim. Therefore, the victim's mother lodged the NC report. The said NC report also mentions about assault to the victim's mother and there is a requisition for medical examination of the victim's mother (PW2). Unless there was need of the medical examination, the question of referring one for medical, does not arise.

32- No doubt, in the cross-examination, the victim (PW1) admitted that her mother (PW2) was not treated in any hospital on that day. But this admission is not sufficient to disbelieve the incident of the assault because the assault has not resulted in some bleeding injury, therefore, perhaps, the victim (PW1) has admitted that her mother (PW2) was not treated in any hospital. That apart, it is the I.O. who is at fault for not producing the medical certificate of the victim's mother, if any. The act of

assaulting the mother of victim by hand by accused No.1 is certainly an offence of voluntarily causing hurt punishable u/Sec.323 of the IPC. But there is no evidence that accused No.2 and the said unknown boy have also participated in the said assault. Moreover, the NC report is silent about such assault by accused No.1 to Shivkumar Sharma, the maternal uncle of the victim (PW1). It is not the case that the maternal uncle was referred for medical by the police. The *Ferist* (फेरिस्त) does not show that the I.O. recorded the statement of the maternal uncle. The said maternal uncle is not examined by the prosecution. As such, there is reasonable doubt about the claim that accused No.1 also assaulted the maternal uncle of the victim. In the backdrop, I answer point No.5 as 'proved', accordingly.

As to point No.6:-

33- Nowhere in their deposition the victim (PW1) and her mother (PW2) informed as to how accused No.1 outraged the modesty of the victim's mother (PW2). Hence, my finding on point No.6 is 'not proved'.

As to point No.7:-

34- In view of the above findings, accused No.2 is entitled for acquittal for the charge of all the offences. Except the charge for the offence U/s 323 of the IPC, accused No.1 is entitled for acquittal for the charge of the rest offences. Accused No.1 is liable to be convicted for the charge of the offence U/s 323 of the IPC.

35- Now, I take a pause to hear accused No.1, the learned advocate for the accused and the learned Spl.P.P. for the State, on the point of sentence.

Date : 29.03.2023.

(Shyam C. Chandak)
Special Judge, Pune.

36- Accused No.1 has submitted that he was Chairman of the Housing Society prior to this case and he is continued as a Chairman till date. He is doing agriculture. He has two children and they are studying at school in Pune. Therefore, no punishment may be imposed on him. Shri. N.V. Ranpise, the learned advocate for the accused submitted that this is first offence proved against the accused. The accused is a respectable member of Society. Therefore, and considering the submissions by accused No.1, he may be released by giving benefit of the Probation of Offenders Act, 1958.

37- Shri. Milind Datrange, Spl.P.P. for the State has submitted that since the offence is committed against a woman, accused No.1 is not entitled for leniency in the punishment.

38- The offence under Section 323 of the IPC is punishable with imprisonment of either description for a term which may extend to one year, or with a fine which may extend to one thousand rupees, or with both. The accused committed the said offence against the woman. It is not the case that anyone from the victim's side gave sudden provocation to the accused and consequently he assaulted the mother of the victim. In fact, the conduct of

accused No.1 itself is responsible for the incident of assault by him on the mother of the victim. Needless to mention that a woman is always respected, even if, a stray incident of altercation takes place between a man and a woman. But this social etiquette was ignored by the accused. Therefore, some punishment shall be imposed on accused No.1 instead of extending him the benefit of the Probation of the Offenders' Act, 1958. Looking to the evidence as a whole, in my considered view the following sentence would meet the ends of justice. Hence, following order:-

ORDER

1. Accused No.1 **Anant Vyankatrao Patil** is acquitted under section 235(1) of the Cr.P.C. of the charge of the offences punishable U/Secs.354, 354-A (ii) and 509 of the IPC and Section 11 (i) (iv) p/u Section 12 of the POCSO Act.
2. Accused No.1 **Anant Vyankatrao Patil** and No.2 **Sou.Sujata Anant Patil** are acquitted under section 235(1) of the Cr.P.C. of the charge of the offence punishable U/Sec. 504 r/w 34 of the IPC.
3. Accused No.2-**Sou.Sujata Anant Patil** is acquitted under section 235(1) of the Cr.P.C. of the charge of offence punishable U/Sec. 323 of the IPC.
4. Accused No.1-**Anant Vyankatrao Patil** is convicted U/Sec.235 (2) of the Cr.P.C. 1973, of the offence punishable U/Sec.323 of the IPC, 1860, and sentenced to suffer simple imprisonment for 15 days.
5. Accused No.1 is entitled to set off under Section 428 of the Cr.P.C., if any.

6. Bail bonds of accused No.1 stand surrendered & of accused No.2 stand cancelled.
7. Accused No.2 shall execute bail bonds under Section 437-A of the Code of Criminal Procedure, in the sum of Rs.15,000/-with one solvent surety in the like amount to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against this judgment.
The said bail bond shall be in force for six months. If the accused fails to appear, the bonds stand forfeited and the procedure under section 446 of Code of Criminal Procedure, shall apply.
8. Copy of the Judgment be given to accused No.1 free of cost.
9. Special Case No.266/2018 is disposed of.

(Pronounced in open Court).

Date : 29.03.2023.
Pune.

(Shyam C. Chandak)
Special Judge, Pune.