

MHPU010076222017



Presented on : 27/06/2017
 Registered on : 28/06/2017
 Decided on : 21/03/2023
 Duration : 05 Y 08M 24D

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUNE
(Presided over by Jayant N. Raje)

Special Case (POCSO) No.280/2017

Exh.46

The State of Maharashtra.
 (Through Police Station Officer,
 Police Station, Sinhgad
 Road, Pune

... .. **Complainant.****Versus**

Sachin Sonba Salunke
 Age- 38 years, Occu.Driver
 R/o Flat No.10, Samrth
 Residency, Jadhavnagar,
 Raikar mala, Dhayari,
 Pune

... .. **Accused.**

 Shri. M.K.Aurangabadkar, and Shri.V.A.Ghogre-Patil, Ld.APP for the
 State
 Shri.Yashpal Purohit, Ld.Advocate for the accused through Legal Aid,
 Pune

OFFENCES PUNISHABLE U/S. 376, 506
OF THE INDIAN PENAL CODE, U/S.03 R/W.S.4, U/S.05
R/W.S.6 AND U/S.07 R/W.S. 08 OF THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012

J U D G M E N T(Delivered on 21st March 2023)

Accused stands charged for committing rape on his own minor daughter by giving threat of dire consequences to her punishable under sections 376, 506 of The Indian Penal Code, under section 03 R/w.S.4 under section 05 R/w.S 06, and under section 07 R/w.S.08 of The Protection of Children from Sexual Offences Act, 2012. (In short, 'the POCSO Act').

2. As per mandate of section 33(7) of the POCSO Act, identity of child is not to be disclosed and therefore, the name of the victim is not indicated in the judgment to protect her identity and the victim of the crime is hereinafter referred to as 'the victim girl'.

03. In brief, the prosecution case is as under:-

It is most unfortunate that the victim in this case is a daughter of the accused, who is auto-rickshaw driver. She is young adolescent girl of 15 years. Her father and mother both are residing separately since 2014. The victim girl was residing with her mother in rented premises at Dhayari, Pune. In February 2016, she came to her father's house at Flat No.10, Smarth Residency, Jadhavnagar, Raikar mala, Dhayari,Pune and stayed with him. After 15 days of her arrival at the house of her father, during night hours, the accused came to the bed room of the victim girl and pressed her mouth. He was naked. He started removing clothes on the person of the victim girl. At that time, she resisted him, however, the accused gave threat of dire consequences to her and then committed forcible sexual intercourse

with her. On the next morning, the accused threatened her not to disclose about the same to anyone otherwise he will kill her. Being frightened, the victim girl remained silent as she had apprehension due to threatening given by her father i.e. the accused. The accused then continued to commit sexual intercourse with the victim girl twice or thrice in a week for long period of more than one year. Fed up with the unbearable harassment, the victim girl video graphed sexual act of the accused with her in her Samsung mobile on 26/04/2017. As the harassment given by the accused was beyond her tolerance, the victim girl disclosed about the act of her father to her friend namely Dadarao Shrirang Salve, Rohini Swapnil Rakshe and her husband Swapnil Rakshe.

04. On 05/05/2017, the victim girl along with her friend Dadarao Salve went to Police chowky, Abhiruchi of P.S.Sinhgad Road and lodged oral report. API Jyoti Gadkari, In charge of Abhiruchi Police chowky, recorded statement of the victim girl on computer. She, thereafter submitted report to Senior P.I. of Police Station, Sinhgad Road Pune for registration of crime. Accordingly, crime No.157/2017 came to be registered against the accused for the offences punishable under section 376, 506 of the IPC and under sections 4,6,8 of the POCSO Act. API Jyoti Gadkari was entrusted with the further investigation.

05. During investigation, API Jyoti Gadkari referred the victim girl for medical examination to Sassoon General Hospital, Pune. She was medically examined by Dr. Amisha Dogra. Statement

of the victim girl and medical opinion revealed that the victim was subjected to penetrative sexual assault.

06. As a part of further investigation, API Jyoti Gadkari recorded statements of witnesses on 06/05/2017. On the same day, she along with two panchas visited spot of incident i.e. Flat No.10, Smarth Residency, Jadhavnagar, Raikar mala, Dhayari,Pune and drew spot panchanama as per factual situation. I.O. seized clothes of the victim girl and her mobile of Samsung Company produced by the victim girl at the time of spot panchanama and also seized one bed sheet, one T-shirt, one contraceptive sponge "Today" at the same time. The victim girl was sent to Girl's Observation Home, Nana Peth, Pune for the purpose of her security on 07/05/2017. Thereafter, the statement of the victim girl was recorded under section 164 of the Cr.P.C..

07. During further investigation, the accused was arrested on 11/05/2017. On the next day, I.O. seized clothes on the person of the accused in presence of panch witnesses under seizure panchanama. On 16/05/2017, mobile produced by the victim girl and reference photographs of the victim girl and accused were sent to Regional Forensic Science Laboratory, Ganesh Khind, Pune for analysis and report. On 17/05/2017, the accused was sent to Sassoon General Hospital, Pune for his potency test. Thereafter, I.O. collected attested copy of birth certificate of the victim girl from the school where the victim girl was studying. Upon completion of investigation,I.O.filed charge-sheet against the accused in Sessions Court, Pune. It is registered as Special Case No.280/2017 and made over to this Court

for trial.

08. On the basis of charge sheet and papers filed along with it, my Ld. Predecessor (Shri. K.D.Vadane) framed charge (Exh.13) against the accused for the offences punishable under sections 376, 506 of The Indian Penal Code, u/s. 03 punishable under section 04, u/s 05 punishable under section 06, and u/s 07 punishable under section 08 of the POCSO Act. The endorsement made below the charge shows that, contents of the charge were read over and explained to the accused in vernacular, to which, he pleaded not guilty by his plea separately recorded. The prosecution was asked to lead evidence in support of its case. Accordingly, the prosecution has examined in all eight witnesses in support of its case and relied on documentary evidence collected during investigation. The statement of the accused u/s.313 of the Cr.P.C. is recorded. His defence is of denial and false implication as he had seen the victim girl with Dadarao Salve before 15 days of lodging FIR and he had beaten both of them, therefore, his daughter was enraged and lodged report against him making false allegations. The accused neither examined himself nor any witness in support of his defence.

09. Following points arise for my determination and I have recorded my findings against each of them, for the reasons stated below:-

Points	Findings
1. Is it proved by the prosecution that, the accused from February 2016 to 03/05/2017 in Flat No.10, Smarth Residency, Jadhav nagar, Raikar mala, Dhayari, Pune,	

committed rape on the victim girl and thereby committed an offence punishable under section 376(2) of the IPC? ... Yes

2. Is it further proved by the prosecution that, during the aforesaid period and place, the accused committed criminal intimidation by threatening the victim girl with dire consequences if she discloses about his act to any one with intent to cause alarm and thereby committed an offence punishable U/s. 506 of the IPC? ... Yes

3. Is it further proved by the prosecution that, during the aforesaid period and place, the accused committed penetrative sexual assault on the victim girl aged about 15 years and thereby committed offence under section 03 punishable under section 04 of the POCSO Act? ... Yes

4. Is it further proved by the prosecution that, the accused being father of the victim girl during the aforesaid period and place, committed penetrative sexual assault on the victim girl aged about 15 years of age repeatedly and thereby committed aggravated penetrative sexual assault under section 05 punishable U/s.06 of the POCSO Act? ... Yes

5. Is it further proved by the prosecution that, during the aforesaid period and place, the accused with sexual intent did act which involves physical contact without penetration and thereby committed offence of sexual assault under section 07

punishable under section 08 of the POCSO Act? No. ...

6. What order? ... Accused is convicted

REASONS

10. In order to prove guilt of accused, the prosecution has examined in all eight witnesses. They are as under :-

Sr. No.	Name of the witnesses	Exh No.
1	P.W.1-The victim girl	17
2	P.W.2-Dadarao Shrirang Salve, friend of the victim girl	18
3	P.W.3- Sou. Ashwini Bhaskar Khade-Patil, who happens to be panch on spot panchanama	22
4	P.W.4-Dr.Gulalbsing Ratansing Shekhawat	24
5	P.W.5-Dr.Amisha Dogra, who medically examined the victim girl	26
6	P.W.6-Arjun Sanjay Gaikwad, Digital Forensic Analyst attached to Regional Forensic Science Laboratory, Pune	28
7	P.W.7- P.I.Jyoti Chandrakant Gadkari	31
8	P.W.8-Sasi Raj, in charge of Kendriya Vidhyalaya, wherein the victim girl(P.W.1) was a student.	38

Ld.APP filed pursis at Exh.40 and thereby closed the prosecution side.

11. I have heard Mr.M.K.Aurangabadkar, Ld.Advocate for the accused and Mr. Yashpal Purohit, Ld.Advocate appearing on behalf

of the accused.

12. Ld.APP submitted that the prosecution has brought on record sufficient evidence to establish that the victim of the crime was below 16 years of age at the time of incident and as per medical evidence, her hymen was found to be completely torn. He further submitted that testimony of the victim girl (P.W.1) finds corroboration from the medical evidence and oral testimony of Dadarao Salve (P.W.2). He further submitted that in addition to that, there is evidence in the form of video recording of sexual act committed by the accused with the victim girl (P.w.1). The authenticity of the video has been established which shows that the accused has committed the offences levelled against him. By referring to Sections 29 and 30 of the POCSO Act, Ld. APP submitted that in a case where the accused is prosecuted for the offences committed under section 3, 5, 7 and 9 of the POCSO, this Court has to presume that the accused has committed the offence for which he is charged under the POCSO Act, unless the contrary is proved. Ld.APP further pointed out that during cross-examination of the victim girl(P.W.1), nothing is brought on record to say that the victim girl(P.W.1) is not reliable witness. Her evidence inspires confidence and it is corroborated by other evidence. Thus, Ld.APP submitted for holding the accused guilty of the alleged offences.

13. Per contra, Ld.Advocate for the accused vehemently argued that birth certificate of the victim girl(P.W.1) was produced at the fag end of the trial, therefore, it is prejudicial to the accused. He further submitted that video recording sought to be relied by the

prosecution is not authenticated, and therefore, there is no due corroboration to the oral testimony of the victim girl(P.W.1). Ld.Advocate for the accused further submitted that the victim girl(P.W.1) in her cross-examination admitted that she had quarrel with her father, therefore, this crucial admission in the cross-examination is sufficient to make the prosecution case doubtful. Ld. Advocate for advocate further submitted that to raise presumption u/s.29 of the POCSO Act, the prosecution has to bring on record foundational facts. He further submitted that here in this case, evidence of the victim girl (P.W.1) is not reliable and convincing and it is not supported by electronic evidence sought to be relied by the prosecution. In such circumstances, the prosecution could not establish the basic facts to raise the presumption against the accused. He, therefore, submitted that the evidence available on record is not at all sufficient to prove the guilt of the accused beyond reasonable doubt and therefore, the accused may be acquitted from the charges levelled against him.

14. **AS TO POINT NO.1, 3 AND 4:-**

This being a case of sexual assault under the POCSO Act, it is for the prosecution to prove firstly that the victim girl (P.W.1) was below 18 years of age at the relevant time. To prove the same, the prosecution relied upon the testimony of the victim girl (P.W.1), Sasi Raj (P.W.8) and Birth Certificate (Exh.44). In the instant case, the victim girl (P.W.1) stated on oath before this Court that her date of birth is 23/02/2002 and she was born in Sassoon Hospital Pune, The

victim girl (P.W.1) was extensively cross-examined by Ld.Advocate for the accused, however, no challenge to her date of birth. The prosecution sought to corroborate her testimony by examining In charge Principal of the school Mr.Sasi Raje (P.W.8), wherein the victim girl was student from 1st Standard. He deposed that the victim girl (P.W.1) was admitted in his school on 03/04/2018 in 1st Standard and her date of birth was recorded in the Admission register on the basis of original date of birth certificate furnished by her parents. He further deposes that as per school record, the date of birth of the victim is 23/02/2002. This witness had brought original School Admission Register before this Court. He placed on record copy of the relevant page in the said register i.e. Page No.137 in which the entry regarding the birth and admission is mentioned. After comparing true copy with the original register, it is marked as Exh.39 subject to objection raised by Ld.Advocate for the accused.

15. During the course of argument, Ld. Advocate for the accused submitted that true copy cannot be read in evidence. In this regard, I may mention here that the original Admission Register is in the custody of school. It is not possible to place the same on record. True copy is compared with the original and then true copy was marked as Exh.39. Entry in the said register discloses that the victim girl (P.W.1) was admitted in the First standard on 03/04/2008 and her date of birth is 23/02/2002. Date of birth recorded in the School Register placed on record is of the school firstly attended by the victim girl (P.W.1) and, therefore, it can be taken into consideration. Though Sasi Raj (P.W.8) states that the date of birth was recorded on

the basis of original birth certificate, however during cross-examination, he stated that he is unable to state whether the birth certificate annexed with the admission form was original or not? This admission in the cross-examination makes somewhat difficult to accept that the date of the victim girl (P.W.1) was recorded on the basis of authenticated document. Provisions of POCSO Act are stringent in nature and applicable only when the victim of the crime is proved to be below 18 years of age at that time of incident. In such circumstances, it would not be appropriate to accept the evidence of Sasi Raj (P.W.8) to prove the age of the victim girl.

16. Here in this case, there is yet another document i.e. Birth Certificate issued by Sub-Registrar and Medical Officer, PMC. It is at Exh.44. After prosecution side is closed, Ld.APP filed application Exh.41 for production of certificate. Ld.Advocate for the accused filed say to the said application at Exh.42. Then after hearing both the side, this Court passed order below Exh.41 on 28/11/2022 and allowed production of birth certificate and marked it as Exh.44 on the ground that the said certificate is issued by Public Authority. In the case of **Harpal Singh and another Vs.State of Himachal Pradesh reported in AIR 1981 SC 361**, the Hon'ble Supreme Court has observed that-

“relevant entry in the birth register was made by concern official in discharge of his official duty and, therefore, it is clearly admissible under section 35 of the Evidence Act and it is not necessary for the prosecution to examine it's author.”

Keeping in view, the observations made by the Hon'ble Apex Court, in the above referred judgment there is no difficulty in accepting birth certificate (Exh.44) without evidence of concerned official.

17. It is seen from the said certificate that the victim girl (P.W.1) was born on 23/02/2002 in Sassoon General Hospital, Pune and the entry of her date of birth was taken in the register maintained by the Health Department, Pune Municipal Corporation under The Registration and Death Act on 28/02/2002. There is no dispute to the fact that Birth Certificate (Exh.44) is issued by the competent authority. It is not the case of the accused that the said certificate is forged one.

18. Ld. Advocate for the accused vehemently argued that the Birth Certificate was produced by the prosecution at the fag end of the trial, as a result of which, the accused had no opportunity to cross-examine the victim girl (P.W.1) on the said certificate and such procedure impacts right of fair trial. In support of his contention, he relied on the case in between **Ketan Sanjay Kokate Vs. The State of Maharashtra+1 (Cri. Appeal No.418/2021 decided on 23/12/2021)**. In the said case, the birth certificate was produced at the fag end of the trial and oral evidence of P.W.1 and P.W.2 therein or as recorded in the birth certificate has not been put to the accused u/s.313 of the Cr.P.C. On the background of these facts, the Hon'ble Bombay High Court observed that-

“the Trial Court has not drawn attention of the accused to this vital circumstance and he had no opportunity to explain circumstance appearing against him. In such

circumstances, prejudice is implicit.”

The Hon'ble High Court further observed that as the Trial Court failed to draw attention of the accused on the vital circumstance, the Trial Court could not have relied upon the same and consequently acquitted the accused on the ground that the prosecution has failed to prove beyond doubt that the victim girl was below 18 years of age on the date of incident.

19. No doubt, Birth Certificate (Exh.44) was produced on record after prosecution side is closed. It was taken on record after giving opportunity to the accused. Moreover, in the statement u/s.313 of the Cr.P.C., attention of the accused was drawn to the circumstance in regard to age of the victim girl(P.W.1). In question No.17, oral evidence of the victim girl(P.W.1) in regard to her date of birth was put to the accused, to which, he answered that he is unable to state. Question No.50 is in respect of evidence of Sasi Raj (P.W.8) and question No.51 is regarding birth certificate (Exh.44) to which, the accused who is father of the victim girl(P.W.1) answered that he does not know the date of birth of the victim girl.

20. Here in this case, the accused was given full opportunity to explain the circumstances appearing against him. Though the birth certificate was produced by the prosecution at the fag end of the trial, no prejudice is caused to the accused. The facts in the cited decision are on different footing, therefore, with due respect, I say that the cited decision is not helpful to the accused in the present case. It is true that

I.O. has not collected original birth certificate from the victim girl(P.W.1) or Pune Municipal Corporation during the course of investigation. I.O.(P.W.7) deposed in her evidence that she collected photo copy of the certificate. It appears that I.O. has not taken sincere efforts to collect best evidence at the appropriate stage. The role of I.O. while conducting investigation in a such sensitive case is very crucial. I.O. is required to display required due diligence on her part while conducting investigation, but unfortunately in this case it is not done in collecting evidence regarding age of the victim girl. This irregularity in the investigation need not necessarily lead to rejection of prosecution case when it is otherwise proved.

21. Here in this case, unchallenged testimony of the victim girl(P.W.1) in regard to her age is fully corroborated by Birth Certificate (Exh.44) and there is no discrepancy as regard to the age of the victim girl(P.W.1), therefore, I hold that the prosecution has proved beyond doubt that the date of birth of the victim girl(P.W.1) is 23/02/2002. As per prosecution case, the first incident took place in February or March 2016. At that time, the victim girl(P.W.1) was 14 years of age, and therefore, the victim girl comes within the purview of 'Child' as defined in section 2(d) of the POCSO Act.

22. Now coming to the evidence of material witnesses in regard to offence of penetrative sexual assault on the the victim girl(P.W.1). Ld.APP submitted that the victim girl(P.W.1) is a daughter of the accused. She stated about act of the accused on oath. He further submitted that nothing is elicited in cross-examination to disbelieve

her testimony. Ld. APP further submitted that testimony of the victim girl(P.W.1) is corroborated by Dadarao Salve (P.W.2) on the material aspect. It is fully corroborated by medical evidence. Ld. APP further submitted that at the time of spot panchanama contraceptive pill 'Today' was seized from the spot which speak volume and no plausible explanation by the accused except denial for finding such contraceptive pill in his house when he was residing alone. Ld.APP further submitted that the victim girl (P.W.1) has video graphed sexual act of the accused in her mobile. It is established by the prosecution by adducing evidence of Arjun Gaikwad (P.W.6) that said video recording is authenticate and no changes have been made in it. Expert evidence fully corroborated the story deposed by the victim girl(P.W.1).

23. By referring section 29 of the POCSO Act, Ld. APP further submitted that presumption is available in favour of he prosecution. The accused has not brought on record any circumstance to rebut the presumption. Thus, Ld.APP submitted that the prosecution has proved beyond reasonable doubt the guilt of the accused. In support of his contention that the sole testimony of the victim girl(P.W.1) can be accepted without corroboration. Ld. APP placed reliance on the case in between **State of H.P. Vs. Shree Kant Shekari reported in AIR 2004 Supreme Court 4404**, wherein the Hon'ble Apex Court observed that-

“there is no rule of law that testimony of the victim of offence of rape cannot be accepted without corroboration in material particulars. It is further observed that if the

Court on the facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial which would lend assurance to her testimony.”

24. He also relied on the case in between **Aslam Vs. State of Uttar Pradesh reported in 2013 ALL MR(Cri) 1894 (S.C.)** where in the Hon'ble Apex has held that-

“ if, upon consideration of the prosecution case in its entirety, the testimony of the prosecutrix inspires confidence in the mind of the Court, the necessity of corroboration to her evidence may be excluded.”

25. On the other hand, Ld.advocate for the accused vehemently argued that as per evidence of the victim girl (P.W.1), she after raising quarrel with her mother came to reside with her father. Her father scolded on her and therefore, she in collusion with her friends fabricated false story, prepared video and made allegations against her father. He further submitted that the first alleged incident took place before more than one year of lodging the complaint. No explanation has been given by the complainant for keeping quiet for considerable long period which would suggest that there is possibility of false implication. He further submitted that to raise presumption u/s.29 of the POCSO Act, it is for the prosecution to prove foundational facts but these foundational facts have not been established by the prosecution as the prosecution has not examined

Rohini Rakshe and Swapnil Rakshe of whose reference was made by the victim girl (P.W.1) in her evidence. They would have thrown some light on the real facts, but the prosecution has withheld these material witnesses and, therefore, adverse inference may be drawn against the the prosecution.

26. Ld. Advocate for the accused further submitted that the prosecution is relying upon video recording, however evidence in regard to video recording is completely doubtful. No voice sample of the victim girl (P.W.1) and the accused were taken by I.O. Moreover, as per the evidence of the victim girl (P.W.1), she video graphed the sexual act in her mobile on 26/04/2017, whereas Arjun Gaikwad (P.W.6) who made analysis of the seized mobile deposes that the recording is of dated 11/04/2017. He further submitted that certificate under section 65-B(4) of The Indian Evidence Act is mandatory requirement for production of electronic evidence, however, no such certificate is produced and proved by the prosecution, therefore, evidence of Arjun Gaikwad(P.W.6) cannot be taken into consideration.

27. Ld.Advocate for the accused in support of his contention relied on the case in between **Manirul Islam Vs. State of Assam reported in AIR Online 2021 Gau 173**. In the said judgment by referring observations of the Hon'ble Bombay High Court in the case of Navin Dhaniram Baraiye Vs. State of Maharashtra reported in 2018 ALL MR(Cri.)4919 it was observed that-

“It becomes apparent that mere insertion of sections 29

and 30(2) in the POCSO does not altogether relieve the prosecution of the burden of proof contemplated under sections 101 and 102 of the Evidence Act but merely lessen the burden on the prosecution by shifting the onus upon the accused. However, such reverse onus would shift upon the accused only when the prosecution succeeds in prima facie establishing the charge by adhering to the standard of proof of preponderance of probability. It is only then , the accused would have to displace the presumption of guilt. What therefore, follows is that conviction in a proceeding initiated under the POCSO cannot be based solely on presumption of guilt of the accused under sections 29 and 30 of the Act."

28. Ld. Advocate for the accused further relied on the case in between **Santosh Prasad @ Santosh Kumar Vs. The State of Bihar (Criminal Appeal No.264 of 2020 decided on 14/02/2020)** , wherein the Hon'ble Apex Court reiterated principle of law that solitary evidence of prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and is of sterling quality. In the said case, the prosecution failed to pass any test of sterling quality, therefore, the accused/appellant therein was acquitted from the charges of rape.

29. Keeping in view the observations made in the above referred Judgments, it is settled position of law that in respect of

sexual assault, the evidence of the victim girl (P.W.1) herself is of paramount consideration. There is no rule of law that her testimony cannot be accepted without corroboration if her evidence inspires confidence and does not suffer from any basic infirmity. If there is difficult to accept sole testimony of the victim girl (P.W.1), other corroborative evidence is required to lend assurance to her testimony. To ascertain whether evidence of the victim girl (P.W.1) is reliable and whether the prosecution has proved foundational facts to raise presumption, I have scrutinized the evidence adduced by the prosecution. First of all, I would like to mention here uncontroverted facts as seen from the evidence of prosecution witnesses. It is not in dispute that the victim in this case is a daughter of the accused. It is also not in a dispute that the accused and his wife are residing separately from each other. It is also not in a dispute that the victim girl (P.W.1) was residing with her mother till February 2016 and thereafter she came to the house of her father and stayed with him. On the background of these uncontroverted facts, the evidence available on record has to be appreciated.

30. Here in this case, a daughter of tender age who was residing under the umbrella of her father made allegations of sexual exploitation against her father. There is least possibility of implicating father and making humiliating statement against her honour such as is involved in the commission of rape on her and that too against her father. The victim girl (P.W.1) is 19 years old at the time of giving evidence in this Court. The first incident had taken place about one year and two months prior to lodging of FIR and at that time, she was

15 years of age. The relationship between the victim girl (P.W.1) and the accused is of particular significance in the instant case and it is required to be borne in mind while considering aspect of delay in lodging complaint and also while appreciating evidence of the victim girl (P.W.1).

31. The victim girl (P.W.1) in her evidence deposed that in February 2016, she came to the house of her father to reside with him. After 15 days of her arrival, when she had slept in a bedroom, her father i.e. the accused came there, he pressed her mouth. When she saw him, he was in naked condition. She further stated that the accused removed clothes on her person. On asking him about it, the accused gave threat to her that he will kill her and then he inserted his penis into her vagina and committed sexual intercourse with her. She further deposed that on the next day morning, the accused gave threat to her not to disclose the incident to anyone otherwise he will kill her and therefore, due to threatening, she has not disclosed the incident to anyone. The victim girl (P.W.1) further deposed that the accused continued to commit sexual intercourse with her twice or thrice in a week and as harassment was constant, she ultimately narrated about act of her father to her friends Dadara Salve (P.W.2), Rohini Rakshe and her husband Swapnil Rakshe.

32. The evidence of the victim girl further discloses that on 26/04/2017, she video graphed sexual act of her father with her in her mobile and then on 05/05/2017, she went to Abhiruch Police Chowky, of Police Station Sinhgad road, Pune and lodged oral report. Her

report is at Exh.18. It is seen that evidence of victim girl (P.W.1) is consistent with the contents of FIR and no omissions and contradictions are brought on record during her cross-examination.

33. The testimony of victim girl (P.W.1) is supported by medical evidence. Dr.Amisha Dogra (P.W.5) examined the victim girl(P.W.1) on 05/05/2017 in Sassoon General Hospital, Pune after noting history given by the victim girl (P.W.1) which was to effect that she was sexually abused by her father. She had also obtained consent of the victim girl (P.W.1). Dr.Amisha Dogra (P.W.5) in her evidence deposes that after clinical examination of the victim girl (P.W.1), her finding is that there is evidence of vaginal penetration , which may be because of sexual intercourse with no other evidence of inflammation or injury on other parts of body of the victim girl (P.W.1). During cross-examination, Dr.Amisha Dogra (P.W.5) admitted that hymen can be ruptured because of various activities like cycling, swimming and running etc, however no such suggestion put to Dr.Amisha Dogra (P.W.5) that the victim girl (P.W.1) was not subjected to sexual intercourse.

34. Medical Examination Report (Exh.27) would show that hymen was completely torn and there was old healed tear. It is true that there was no inflammation or injury on other parts of body of the victim girl (P.W.1) but that is not sufficient to suggest that she was not subjected to sexual assault. No reason to discard medical evidence available on record which suggests that, the victim girl was subjected to penetrative sexual assault. The accused on the threat of killing the

victim girl (P.W.1) continued to keep sexual relations with her. The medical evidence brought on record by the prosecution fully corroborates the case of the victim girl (P.W.1) and lends assurance to her case.

35. On the basis of evidence of the victim girl (P.W.1) in examination-in-chief supported by the medical evidence in the form of Medical Examination Report (Exh.27), it can be said that the prosecution established foundational facts to raise presumption under section 29 of the POCSO Act that the accused has committed the offence under sections 3 and 5 of the POCSO Act. The said presumption is rebuttal one and it will have to be seen whether the accused has brought on record such circumstances or probability to say that he succeeded in rebutting the presumption which is in favour of the prosecution.

36. Admittedly, the accused has not examined himself or any witness in support of defence. Now turning to the cross-examination of the victim girl (P.W.1). It is seen from the cross-examination of the victim girl (P.W.1) that as the quarrel used to take place between her and mother, she left the house of her mother and came to reside with her father in February 2016. The victim girl (P.W.1) further stated that her mother used to beat her and used to humiliate her in front of others, and therefore, she left the house of her mother on 26/02/2016 after intense quarrel with her mother. During further cross-examination, the victim girl (P.W.1) stated that she regularly used to go to her school by bus, however, she has not narrated about the act of

her father to her school teacher or Headmaster of the school. The victim girl (P.W.1) admitted in cross-examination that the accused used to consume liquor and under the influence of liquor, he used to beat her and used to scold and give harassment to her.

37. The defence of the accused as appears from the cross-examination of the victim girl (P.W.1) that as the accused scolded on the victim girl (P.W.1), she in collusion with Dadarao Salve (P.W.2), Rohini Rakshe and her husband Swapnil Rakshe lodged false report. The victim girl (P.W.1) denied the suggestion put to her in that regard. As per evidence of the victim girl (P.W.1), after the first incident, the accused continued to commit sexual intercourse with her twice or thrice in a week and it continued till 03/05/2017. As result of threatening, helpless girl of tender age could not gather courage to disclose about the incident to anyone but as the harassment was beyond her tolerance, she video graphed sexual act of her father in her mobile and also disclosed the incident to her friends and then lodged the report. There is no reason to disbelieve the testimony of the victim girl (P.W.1) supported by the medical evidence. Her evidence is reliable, trustworthy and liable to be accepted and needs no further corroboration. However, her evidence is supported by other evidence.

38. The testimony of the victim girl (P.W.1) gets complete support and corroboration from the evidence of Dadarao Salve (P.W.2) who deposes that he is resident of Raikar Mala, Dhyarigaon, Pune where the victim girl was residing. He further stated that prior to 15 days of lodging of report, the victim girl (P.W.1) narrated him

that her father keeps sexual relationship with her. He further stated that the victim girl (P.W.1) had shown him video which was in her mobile and in the said video, the accused was seen while committing sexual intercourse with the victim girl (P.W.1), and therefore, he advised the victim girl (P.W.1) to lodge report with police. It is seen that nothing worthwhile is elicited in the cross-examination of this witness. He has out-rightly denied that to get rid from father of the victim, he along with Rohini Rakshe and her husband Swapnil Rakshe assisted the victim girl (P.W.1) in morphing video in question.

39. In the statement u/s.313 of the Cr.P.C., the accused has taken entirely different defence about false implication. He stated that prior to 15 days lodging of report, the victim girl(P.W.1) was at the house of Dadarao Salve (P.W.2) and on that ground, he had beaten both of them and got annoyed by the same, the victim girl (P.W.1) lodged report against him. It is pertinent to note that no such suggestions are given to the victim girl (P.W.1) and Dadarao Salve (P.W.2) in the cross-examination. It appears that to escape from the clutches of law, the accused has changed his stand and defence at every stage of proceeding, therefore, it can be said that, defence of the accused is weak, however, it can not take place of proof. It can be used to lend assurance to prosecution case.

40. The another challenge raised to the prosecution case that there is delay in lodging FIR. No doubt, the first incident took place in February or March 2016 and thereafter without disclosing the incident to anyone, the victim girl (P.W.1) stayed with the accused. According

to the victim girl (P.W.1), a sexual act was continued for more than one year. It was expected from her to disclose about such heinous act to some one immediately after the first incident, however, it is seen from the evidence of victim girl (P.W.1) that at the time of first incident, she was 14 years of old only. Her relations with mother were not good. Even after lodging of complaint by victim girl (P.W.1) against her father, her mother did not come forward to claim her custody and as a result of it, I.O.by issuing letter sent the victim girl to Girls Observations Home, Nana Peth, Pune.

41. It is further seen that presently victim girl (P.W.1) resides in Shradhanand Mahila Ashram, Matunga, Mumbai. A tender age of girl was without support of her mother or relatives. Moreover, she was given threat of direct consequences. It is also significant to mention here that there was question of honour and reputation of the victim herself as the victim was ravished by her own father then it does not appear probable that immediately the complaint about such incident would be lodged. Therefore, in the facts and circumstances of the case having regard to the fiduciary relationship between the victim girl (P.W.1) and the accused, it has to be held that the delay in lodging report is satisfactorily explained as being apparent from the facts on record and the prosecution case, therefore, cannot be disbelieved merely on that ground.

42. P.I.Jyoti Gadkari (P.W.7) has recorded statement of the victim girl (P.W.1) and then on the basis of it, registered crime against the accused and investigated into the crime. She deposes that on

06/05/2017, she visited the spot of incident and recorded spot panchanama in presence of two panchas. The said panchanama is at Exh.23. She further stated that she has seized clothes on the person of the victim girl (P.W.1) and one bed sheet, T-Shirt and one pill namely 'Today' found on the spot i.e. in a room where the incident took place. She further stated that she has also collected one Samsung mobile handset produced by the victim girl (P.W.1). Her testimony is supported by Sou. Ashwini Khade Patil (P.W.3) who happens to be a panch witness. There is nothing in the cross-examination of Sou. Ashwini Khade Patil (P.W.3) to reach to the conclusion that the spot panchanama was not prepared in her presence.

43. During further investigation, P.I. Jyoti Gadkari (P.W.7) arrested accused on 11/05/2017 and seized clothes on his person under seizure panchanama (Exh.34) on 12/05/2017. P.I. Jyoti Gadkari (P.W.7) forwarded seized Samsung mobile to Regional Forensic Science Laboratory, Ganesh Khind, Pune for its analysis and report as per letter (Exh.35). After seizure of contraceptive pill 'Today', Police showed the said pill to Dr. Gulalbsing Shekhawat (P.W.4), a Professor and HOD, of Gynecology department in Kashibai Navale Medical College Pune and sought his opinion. The prosecution has examined Dr. Gulalbsing Shekhawat (P.W.4) who deposes that the police showed him one contraceptive vaginal sponge trade name 'Today', which is available over the counter of medical store. He further stated that the said sponge is being used by female into vagina during intercourse to avoid pregnancy. The evidence of this witness is for limited purpose. The accused was residing in his house along with his daughter,

therefore, presence of contraceptive sponge in his house lends assurance to the prosecution case. The net result of the aforesaid discussion is that the evidence of the victim girl (P.W.1) is truthful, reliable and supported by medical evidence and oral evidence of Dadarao Salve (P.W.2) on the material aspect to whom she narrated the incident.

44. Ld.Advocate for the accused submitted that though there is reference of Rohini Rakshe and her husband Swapnil Rakshe in the evidence of victim girl (P.W.1) and their statement are recorded by police, but they are not examined by the prosecution. In this regard, section 134 of the Indian Evidence Act provides that no particular number of witnesses shall in any case be required for the proof of any fact and evidence has to be weighed and not counted, therefore non-examination of these two witnesses will not lead to draw adverse inference against the prosecution.

45. The evidence of the victim girl (P.W.1) inspires complete confidence and therefore, no further corroboration in fact is required. Nevertheless, the prosecution has placed on record electronic evidence and expert evidence to fortify its case. Before adverting to the said evidence, it would be appropriate to refer legal position regarding electronic evidence.

46. It is settled position of law that whenever original electronic record is produced then no certificate as per section 65B(4) of the Indian Evidence Act is required. But when original record can not be produced or if reliance is placed on second copy of electronic

record, then certificate as contemplated by section 65B(4) of The Indian Evidence Act is necessary.

47. Ld.Advocate for the accused submitted that no certificate under section 65B(4) of The Indian Evidence Act is issued by Arjun Gaikwad (P.W.6), and therefore, electronic evidence relied upon by the prosecution cannot be taken into consideration. In support of his contention, he relied on the case in between **Ravinder Singh @ Kaku Vs. State of Punjab reported in 2022 Livelaw (SC) 461**, wherein the Hon'ble Apex Court observed that-

“oral evidence in the place of certificate cannot possibly suffice as section 65B(4) is mandatory requirement of law”.

48. In the case in hand, the prosecution has come with a case that the victim girl (P.W.1) video graphed the incident through her mobile handset and said video shows that the accused committed sexual intercourse with the victim girl (P.W.1). To substantiate it, the prosecution seized and produced original mobile handset through which the incident was recorded and in which mobile, the said video was firstly saved but unfortunately the mobile handset seized by police Article 'A' did not start due to damage of battery as a result of it, original video could not be played and seen during recording of evidence of the victim girl (P.W.1) and Dadarao Salve (P.W.2). Thus, facts remains that original video/first video is not proved as per provisions of The Indian Evidence Act.

49. Since the original video contained in the mobile handset could not be played, the prosecution placed reliance upon DVD prepared by Arjun Gaikwad(P.W.6) when the mobile was sent to Regional Forensic Science Laboratory, Pune for analysis. The said DVD was played at the time of evidence of the victim girl (P.W.1) and Dadarao Salve (P.W.2). Upon watching the video, the victim girl (P.W.1) and Dadarao Salve(P.W.2) identified the accused, but the question is whether DVD and information/video contained therein can be considered and whether identification made by the victim girl (P.W.1) and Dadarao Salve (P.W.2) on the basis of video in DVD is worthy of acceptance.

50. In this regard, provisions of section 65B of The Indian Evidence Act needs to be looked into. It provides that any information contained in an electronic record is copied in optical or magnetic media produced by computer shall be deemed to a document, if the conditions mentioned in the said section are satisfied in relation to the information and computer in question and shall be admissible in any proceeding without further proof or production of original.

51. Admittedly, video lying in the DVD was prepared by Arjun Gaikwad (P.W.6) is not original one. It is copy of video stored in mobile handset of the victim girl therefore, certificate in terms of Section 65B(4) of The Indian Evidence Act was necessary, however no such certificate is produced by the prosecution. Since certificate under section 65B(4) of the Indian Evidence Act is not attached with DVD, it cannot be said that the conditions as contemplated by section

65B of The Indian Evidence Act are satisfied so as to admit evidence in DVD without further proof. Consequently, I am of the view that DVD and video copied therein cannot be taken into consideration. Since the DVD and Video therein will have to be excluded from consideration and identification made by the victim girl (P.W.1) and Dada Salve (P.W.2) on the basis of video copied in DVD has to be ignored to that extent only.

52. Arjun Gaikwad (P.W.6) was working as a Digital Forensic Analyst in Regional Forensic Science Laboratory, Pune at the relevant time. He deposes that muddemal i.e. Samsung Mobile in Crime No.157/2017 registered with Police Station Sinhgad Road, Pune was allotted to him for analysis. It was in sealed condition. He further stated that he examined article as per letter of police. He further stated that he extracted mobile data and SIM data by using Cellebrite UFED4 PC of cellebrite software and also used AMPED software for authentication of image and video. He further stated that he saw one video file relating to crime in question. He took screen shots from the said video and compared with the reference photographs of the victim girl and the accused sent by police to Regional Forensic Science Laboratory, Pune and gave his expert opinion that a person appearing in the reference photographs are similar person in the screen shots taken from the video file. After analysis, Arjun Gaikwad (P.W.6) recorded his finding that Cyber forensic analysis of the video recording file shows that the video is authenticate and no changes have been made. He proved the contents of report (Exh.29) in his evidence. The said report is opinion of

Expert, which is relevant. It does not require certificate under section 65B(4) of The Indian Evidence Act and it can be used as a evidence of any other witness. In cross-examination, this witness denied suggestion put to him that video in question is morphed.

53. The seized mobile was sent in sealed condition to Regional Forensic Science Laboratory, Pune along with reference photographs of the victim girl and the accused. Regional Forensic Science Laboratory, Pune has reported that video was authenticate and no changes have been made in the said video and the victim girl(P.W.1) and the accused are appearing. It is seen from the cross-examination that the accused has not denied the video or face of the accused. It was suggested in the cross-examination of the victim girl(P.W.1) that the subject video was received on whatsApp and the victim girl (P.W1) has morphed video by taking photographs of her father from Facebook. No where, it is brought on record that the accused was using Facebook or his photograph was available on Facebook. Mere suggestion is not sufficient to disbelieve the evidence of Arjun Gaikwad (P.W.6) who is an independent witness and he has given evidence on the basis of original video. Even the accused has not denied the reference photographs. In such circumstances, no reason to disbelieve the expert opinion available on record which supports the case of the victim girl (P.W.1).

54. Ld.Advocate for the accused pointed out that as per testimony of the victim girl (P.W.1), she has video graphed sexual act of her father in her mobile on 26/04/2017 where as Arjun Gaikwad

(P.W.6) and report (Exh.29) discloses that the video is dated 11/04/2017. This variance in the evidence makes prosecution story unreliable. He further submitted IMEI number of mobile in question are different in the letter (Exh.35) addressed by I.O. to Regional Forensic Science Laboratory, Pune and report (Exh.29). He further submitted that no explanation is given by the prosecution in that regard and therefore, expert opinion sought to be relied by the prosecution is liable to be discarded.

55. I have gone through the evidence and relevant documents. It is seen that as the seized mobile was of two SIM and therefore, two IMEI numbers have been mentioned in the letter (Exh.35), however in the report (Exh.29), some typographical mistakes might have occurred in mentioning IMEI number. In regard to objection regarding date of video recording, the victim girl (P.W.1) states that it was recorded on 26/04/2017 whereas Arjun Gaikwad (P.W.6) states that it was recorded on 11/04/2017. There is difference in the date mentioned by both the witnesses, however fact remains that there was original video in the mobile, in which incident of sexual assault was video graphed, therefore, variance in the date of recording video will not make prosecution case doubtful.

56. The victim being a daughter of the accused, there was absolutely no reason for her to implicate her father in a false case to break her home and stability of domestic life. The accused could not bring on record any circumstance or probabilities to reach to the conclusion that he succeeded in rebutting presumption under section

29 of the POCSO Act, which is in favour of the prosecution.

57. In view of my aforesaid discussion, I hold that the prosecution has succeeded in establishing that the accused being relative or a person in a position of trust committed rape on the victim girl (P.W.1) below 16 years of age under Clause(f) (i) (n) of sub-section 2 of Section 376 of the Indian Penal Code, under section 3(a) of POCSO Act and also under Clause (l) (n) of section 5 of the POCSO Act. Hence, I answer Point No.1, 3 and 4 in the affirmative.

58. **AS TO POINT NO.2:-**

Next charge against the accused is that he has committed criminal intimidation by threatening the victim girl (P.W.1) with injury to her person with intent to cause alarm to her. Section 503 of the IPC defines 'criminal intimidation' and section 506 of the IPC provides punishment for that. 'Threat' refer to in section 503 of the IPC must be a threat communicated or uttered with the intention of it's being communicated to the person threatened for the purposes of influencing his mind. The victim girl (P.W.1) in her evidence deposed that at the time of first incident, her father threatened her to keep silence, otherwise, he will kill her and then he committed sexually intercourse with her. Evidence of the victim girl (P.W.1) further discloses that on the next day morning, her father threatened her not to disclose about his act to anyone otherwise, he will kill her and thereafter, he continued to commit sexual intercourse with her repeatedly. It can be gathered from the said evidence that the threatening given by the

accused influenced the mind of the victim girl (P.W.1), and therefore, she did not resist the physical desire of the accused. From this, it can be said that the accused committed criminal intimidation as defined in section 503 of the IPC and liable to be punished u/s.506 part 2 of The Indian Penal Code. Hence, I answer Point No.2 in the affirmative.

59. **AS TO POINT NO.5:-**

The last charge against the accused is that he has committed sexual assault on the minor girl. Section 07 of the POCSO Act defines offence sexual assault provides that a person is said to commit sexual assault if he with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration. Herein this case, the prosecution has established that the accused has committed aggravated penetrative sexual assault upon the minor girl, therefore, in such case, sexual assault defined in section 07 of the POCSO Act will have no application. Hence, I answer Issue No.5 in the negative.

60. In view of my aforesaid discussion and finding on the points under consideration, I hold the accused guilty for the offences punishable U/ss. 376(2),506 of The Indian Penal Code and u/s.03 R/w.s04, u/s.05 R/w.s.06 of The Protection of Children from Sexual Offences Act, 2012.

61. Section 42 of the POCSO Act provides that where an act

and omission constitutes an offence punishable under This Act and under the IPC, then notwithstanding anything contained in any other law for the time being in force, the offender found guilty of such offence shall be liable to punishment under the POCSO Act or under the IPC as provides for punishment which is greater in degree. The criminal act in this case took place in 2016-2017, therefore, punishment which was in force at the time of commission of offence will have to be imposed. Punishment prescribed u/s.06 of the POCSO Act for aggravated penetrative sexual assault was rigorous imprisonment for a term which shall not less than 10 years but which may extent to imprisonment for life and shall also be liable to fine.

62. The punishment prescribed U/s.376(2) of the IPC is rigorous imprisonment which shall not less than ten 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 liable to fine.

63. Punishment U/s.376(2) of IPC is greater in degree and will have to be imposed on the accused. It is also relevant to note here that no need to pass separate sentence against the accused for the offence under section 04 of the POCSO Act as he is being sentenced for aggravated offence. With this, I stop here to hear the accused on the point of sentence.

Date: 21/03/2023

(J. N. Raje)
Additional Sessions Judge,
Pune

64. At this stage, I have heard the accused, Ld. Advocate for the accused and Ld.APP for the State on the point of sentence. The accused submitted that considering his age, lenient view may kindly be taken. Ld. Advocate for the accused submitted that other family members are depending upon the accused, therefore, minimum punishment be awarded so that there is chances of reformation.

65. As against this, Ld. APP submitted that the accused being father of the victim girl, he is a protector of his daughter and in spite of that, he committed heinous crime against his own daughter, therefore, maximum punishment be awarded against the accused.

66. It is relevant to note here that the offence of rape has been established against the accused who is father of the victim girl. Father is supposed to protect his children against all forms of neglect, abuse, cruelty, exploitation and other condition prejudicial to their interest and development. Here in this case, the victim girl aged about 14 years came to the house of her father with a hope that she would be shielded from all forms of danger of the outer world, but her own father took undue advantage of the situation and committed sexual intercourse with his own minor daughter. The offence committed by the accused is most heinous crime. The accused betrayed the trust reposed in him by his daughter with total disregard to sacred relationship, therefore, in this case, it would not be appropriate to take lenient view and maximum punishment will have to be awarded against the accused and that would be most justified in the facts and circumstances of the case. With this, following order is passed :-

ORDER

1. Accused namely **Sachin Sonba Salunke** is hereby convicted vide section 235(2) of the Code of Criminal Procedure, for the offences punishable **U/Ss. 376(2), 506** of The Indian Penal Code and **U/s.3 R/w.s.4** and **U/s.5 R/w.s.6** of The Protection of Children from Sexual Offences Act, 2012.

2. Accused **Sachin Sonba Salunke** is sentenced to undergo **rigorous imprisonment for life**, which shall mean imprisonment for the remainder of the natural life of the accused and to pay fine of **Rs.5,000/-** (Rs.Five thousand only), in default of payment of fine amount to undergo further rigorous imprisonment for six months for the offence punishable **U/s.376(2)** of The Indian Penal Code.

3. Accused **Sachin Sonba Salunke** is further sentenced to undergo rigorous imprisonment for **three years** for the offence punishable **U/s.506** of The Indian Penal Code.

4. In view of sentence imposed for the offence punishable **U/s.376(2)** of The Indian Penal Code, no separate sentence is awarded to the accused for the offence punishable **U/ss.4 and 6** of The Protection of

Children from Sexual Offences Act, 2012 though he is found guilty for the same.

5. Accused is hereby acquitted vide section 235(1) of the Code of Criminal Procedure, of the offences U/s.7 punishable U/s.8 of The Protection of Children from Sexual Offences Act, 2012.

6. All the substantive sentences shall run concurrently.

7. The accused is in jail from **11/05/2017**. The period of detention undergone by the accused shall be set off against term of imprisonment U/s.428 of The Code of Criminal Procedure.

8. Muddemal i.e.clothes on the person of the victim girl and the accused being worthless, be destroyed.

9. Seized Mobile of Samsung company be returned to the victim girl and DVD be destroyed.

10. Order in respect of disposal of muddemal property shall take place after period of appeal is over.

11. It is recommended that The District Legal

Services Authority, Pune shall decide quantum of compensation payable to the victim girl under The Victim Compensation Scheme referred to in section 357-A of The Code of Criminal Procedure.

12. Copy of this Judgment be supplied to the accused free of costs.

Date: 21/03/2023

(J. N. Raje)
Additional Sessions Judge,
Pune.

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, PUNE
(Presided over by Jayant N. Raje)

Special Case (POCSO) No.280/2017

Exh.46

The State of Maharashtra.

(Through Police Station Officer,
Police Station, Sinhgad
Road, Pune

... ..

Complainant.

Versus

Sachin Sonba Salunke

Age- 38 years, Occu.Driver
R/o Flat No.10, Samrth
Residency, Jadhavnagar,
Raikar mala, Dhayari,
Pune

... ..

Accused.

Operative Order

1. Accused namely **Sachin Sonba Salunke** is hereby convicted vide section 235(2) of the Code of Criminal Procedure, for the offences punishable **U/Ss. 376(2), 506** of The Indian Penal Code and **U/s.3 R/w.s.4** and **U/s.5 R/w.s.6** of The Protection of Children from Sexual Offences Act, 2012.

2. Accused **Sachin Sonba Salunke** is sentenced to undergo **rigorous imprisonment for life**, which

shall mean imprisonment for the remainder of the natural life of the accused and to pay fine of **Rs.5,000/-** (Rs.Five thousand only), in default of payment of fine amount to undergo further rigorous imprisonment for six months for the offence punishable **U/s.376(2)** of The Indian Penal Code.

3. Accused **Sachin Sonba Salunke** is further sentenced to undergo rigorous imprisonment for **three years** for the offence punishable **U/s.506** of The Indian Penal Code.

4. In view of sentence imposed for the offence punishable **U/s.376(2)** of The Indian Penal Code, no separate sentence is awarded to the accused for the offence punishable **U/ss.4 and 6** of The Protection of Children from Sexual Offences Act, 2012 though he is found guilty for the same.

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12. Copy of this Judgment be supplied to the accused free of costs.

Date: 21/03/2023

(J. N. Raje)
Additional Sessions Judge,
Pune.

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

Name of Steno.	:-	S.B. Gore, Stenographer-Grade-I
Court Name	:-	J. N. Raje Additional Sessions Judge, Pune
Date	:-	21/03/2023
order signed by P.O. on	:-	23/03/2023
order uploaded on	:-	23/03/2023