



Presented on : 16-01-2018
 Registered on : 16-01-2018
 Decided on : 10-05-2021
 Duration : 03Y,03M,24D

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

.....

Spl. (POCSO) Case No. 22/2018
[CNR MHPU010008702018]

Exh. No.

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

... **Prosecution.**

Versus

Atharv Rajendra Nangare
 Age – 19 years, Occ – Education,
 R/at – 378, Shukrawar Peth,
 Shahu Chowk, Angrewada, Pune

... **Accused.**

Offence punishable under sections 376(2)(n), 506(2) of Indian Penal Code r/w section 6 of Protection of Children from Sexual Offences Act.

 Shri H.Y. Mendki, A.P.P. for the State.
 Shri. A.A. Musale, Advocate for accused.

J U D G M E N T
 (Delivered on 10th May, 2021)

Accused is facing trial for the offence punishable under sections 376(2)(n), 506(2) of Indian Penal Code r/w 6 of Protection

of Children from Sexual Offences Act.

2] In short, it is the case of the prosecution that victim is a minor girl. Her mother lodged the report and alleged that on 02-06-2016 in a flat situated at Shinde Ali, Pune and on 18-09-2017 in a room of hotel Green Hood, Pune accused repeatedly committed rape on victim, a minor girl by threatening her to defame her by showing her photographs to her parents and also repeatedly committed aggravated penetrative sexual assault on a minor victim child. On the basis of such report offence as referred above came to be registered.

3] Necessary to note that initially Crime No. 452/2017 was registered with Vishrambaug Police Station, Pune. However, the spot found situated within the jurisdiction of Khadak Police Station and therefore the crime was transferred in Khadak Police Station, Pune wherein fresh Crime No. 409/2017 was registered. During investigation spot panchanama was prepared. The mobile was seized. The victim and accused were medically examined. The statement of the witnesses were recorded. The samples of the victim and accused were collected and forwarded for chemical analysis. 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. 10 for the offence punishable under sections 376(2)(n), 506(2) of Indian Penal Code r/w 6 of Protection of Children From Sexual Offences Act 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 on 02-06-2016 in a flat situated at Shinde Ali, Pune and on 18-09-2017 in a room of Hotel Green Hood, Pune accused repeatedly committed rape on minor victim girl by threatening her?	 No
2]	Whether the prosecution proves that on the same date time and place accused committed criminal intimidation by threatening victim, a minor girl to defame her by showing her photographs to her parents with intent to cause alarm to her ?	 No
3]	Whether the prosecution proves that on same date, time and place accused committed aggravated penetrative sexual assault with minor victim girl?	 No
4]	What order?	...As per final order.

REASONS

As to Point No. 1 to 4:-

6] Name of the Prosecutrix/Victim, her parents, relatives i.e. their identity, occupational/work address of the accused and the

Prosecutrix/victim etc., is not disclosed in view of the directions of Hon'ble Apex Court in the case of **Nipun Saxena Vs. Union of India, (2019) 2 Supreme Court Cases 703** and in the case of **Sangita Yashwant Tanpure Vs. State of Maharashtra & Others, Criminal Public Interest Litigation No. 1/2016 dated 19th January, 2021 (Bombay High Court -DB).**

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 at Exh-14, P.W.2 Father of victim at Exh-15, P.W.3 Victim at Exh-16 and P.W.4 Investigating Officer API Pratiksha Shendge at Exh-20. Besides, the prosecution has also produced certain documents namely – Arrest Panchanama Exh-21, Spot Panchanama Exh-22, Seizure Panchanama Exh-25, Spot Panchanama Exh-26, Letter to C.A. Exh-27 & 28 and C.A. Report Exh-29. The prosecution has closed evidence by pursis Exh-30. 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] P.W.3 Victim is the star witnesses of the prosecution. She testified that her parents were against her friendship with accused and therefore they lodged report. According to her no incidence has

taken place with her. P.W.1 Informant/mother of the victim has also denied contents of the report. Same is the situation with the evidence of P.W.2 Father of the victim. The evidence of these witnesses not found sufficient to show complicity of the accused with the incidence. P.W.4 API Shendge has conducted investigation. Her evidence is not much helpful on the point of incidence in question.

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.

10] It appears that vide arrest panchanama Exh-21 a mobile of Apple Company bearing IMEI No. 359160071952195 came to be seized from accused. Accused has not denied it. Thus, said mobile needs to be returned to its rightful owner on verification of documents. Thus, I answer Point No. 1 to 3 in the negative and Point No. 4 accordingly. Hence the following order :-

ORDER

- 1) Accused is acquitted of the offence punishable under sections 376(2)(n), 506(2) of Indian Penal Code and section 5 punishable under section 6 of Protection of Children from Sexual Offences Act vide section 235 (1) of Code of Criminal Procedure.
- 2) 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.

- 3) Seized mobile of Apple Company bearing IMEI No. 359160071952195 be returned to its rightful owner on verification of documents after appeal period is over.

[Dictated and pronounced in open Court.]

Place:Pune

Dt.-10-05-2021

(M. R. Purwar)

Additional 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 – Grade I
Court	:	Shri M.R. Purwar, D.J.-5 & Addl. Sessions Judge Pune
Date	:	10-05-2021
Judgment signed by the Presiding Officer on	:	10-05-2021
Judgment uploaded on	:	10-05-2021

.....