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IN THE COURT OF SPECIAL JUDGE, AT PUNE
 (Presided over by **Mahendra K. Mahajan** – Special Judge)

Special Case (POCSO) No.172/2018

Exh. 96

(FIR No.197/2017 at Koregaon park Police Station, District: Pune.)

Complainant	The State of Maharashtra
Represented By	Shri. Milind Datrange Ld. Spl.PP for the State.
Accused	Satyavan Balasaheb Nanavare Age : 25 Yrs., Occ.: Service. R/o:S.No.165, near old Stoney Cistern, Malwadi, Hadapar, Pune.
Represented By	Shri. Nasir H. Shaikh Learned Advocate.

Date of offence	From June 2017 to 04.12.2017
Date of FIR	12.12.2017
Date of Chargesheet	24.04.2018
Date of Framing of Charges	06.07.2023
Date of commencement of evidence	10.04.2024
Date on which judgment is reserved	01.10.2025
Date of the Judgment	07.10.2025
Date of the Sentencing Order, if any	As per final order.

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.
Satyavan Balasaheb Nanavare	13.12.2017	22.12.2017	354, 354-D, 392, 506 of the Indian Penal Code and U/s. 8 and 12 of the POCSO Act.	Acquitted	13.12.2017 to 30.12.2017 and 23.09.2025 to 07.10.2025

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW1	Victim	16	Victim
PW2	Vijay Sharad Torane	23	Witness
PW3	Nirmala Subhash Pawar	24	Spot panch
PW4	Vijay Harishchandra Pawar	30	Witness
PW5	Sunanda Mohan Pawar	36	Witness
PW6	Sunil Khandu Jagdhane	37	Security guard
PW7	Dattaram Shantaram Angre	45	Nodal officer, Vodaphone Idea.
PW8	Rajendra Yashwant Kadwaikar	60	Clerk from Karmveer Bahurao Patil School
PW9	Smt. Vidya Bhauso Raut	68	Investigating Officer
PW 10	Aparna Anil Basarkar	76	Witness from Birth and death registrar

A. Prosecution exhibits :

Sr. No.	Exh. Nos.	Description.
1	17/18	FIR / printed FIR
2	19	Statement U/s.164 of the Cr.P.C. of victim
3	25	Spot panchanama
4	46	Forwarding letter
5	47	Certificate U/s. 65-B

6	48	Copy of CAF
7	49/50	Copy of election card and CDR
8	51	Letter from police to DCP (referred in cross)
9	61	Letter
10	62	Certified copy of the certificate
11	63	Verified copy of extract of register
12	64	Bona fide certificate
13	69	Seizure panchnama of mobile
14	70	Letter to C.A.
15	71	C.A. report
16	72	Letter to call CDR
17	73	Report of recording supplementary statement of victim.
18	74	Report to Superior
19	77	Original birth certificate
20	78	Certified copy of Janan- varta form

Defence Witness :-

Rank	Name	Exh. Nos.	Nature of Evidence
DW1	Samadhan Navnath Rajguru	85	Uncle of accused

Document exhibited by Defence :-

1	Death certificate of Chandrakant	80
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- J U D G M E N T -
(Delivered on 07th October 2025)

The accused stands tried for the offences punishable under Sections 354-A, 354-D, 392, 506 of the Indian Penal Code, 1860, (**the IPC for short**) and under Section 7 punishable under section 8 and U/s.11

punishable U/s. 12 of the Protection of Children from Sexual Offences Act, 2012 ('the *POCSO Act* for short).

In brief, the prosecution case is as under :-

02. The informant / victim is a minor. Her date of birth is 21.08.2001. At the time of offence, she was studying in Netaji Subhash Chandra Bose School, Yervada, Pune in 11th Std. She was residing in St. Janabai Girls Hostel, Queens Garden, Pune. The accused is her relative. They were acquainted with each other. The accused used to come to the house of victim. He took mobile number of victim and thereafter talk used to be taken place between them on mobile. From June 2017, accused started saying that, he wanted to marry with her. She was not ready to marry, but there was harassment from accused, therefore, she informed this fact to uncle Vijay Pawar and elder aunti Sunanda Pawar. Both of them had given understanding to accused not to telephone her and harass her.

03. The first incident happened on 30.10.2017 when she was proceeding to her college from hostel in a lane near Shrimant Hostel, accused chased her, threatened her, stopped her and said that, he wanted to marry the victim. Victim said that she was minor and she was not ready to marry and asked him not to meet and harass her. At that time, accused put his hand to her neck and pressed her breast. He also pulled her

towards him. She rescued herself by giving jerk. When she was trying to call Vijay Sharad Torane from her mobile, accused snatched the mobile and left the place with her mobile.

04. The second incident happened on 04.12.2017 at the bus stop in front of St. Meera's college, accused stopped her and asked to talk with him. She denied to talk with him. At that time, accused said that, in his mobile, there are some obscene photos of victim. Victim asked when photographs were snapped, the accused threatened her not to speak anything and if she would not marry with him, he will viral the photographs among the relatives. Thereafter she went to the college. On 11.12.2017, she talked with Vijay Pawar uncle and thereafter on 12.12.2017, she lodged report (Exh. 17) in Koregaon park police station.

05. On the basis of said report, Crime No. 197/2017 was registered in the Koregaon Park Police Station for the offences punishable under Sections 354-A, 354-D, 392, 506 of the Indian Penal Code and under Sections 8 and 12 of the POCSO Act. In the investigation, the spot panchanama was conducted of both the places. The statement of the victim was caused to be recorded U/s. 164 of Cr.P.C. The statements of the witnesses were recorded. The

documents i.e. Aadhar Card, school leaving etc. were collected. The details of the Cellular No.9657540462 were collected. In the investigation, the offence reveals to have been committed by the accused therefore, charge-sheet was filed against the accused U/ss. 354-A, 354-D, 392, 506 of the Indian Penal Code and under Sections 8 and 12 of the POCSO Act.

06. The charge was framed against the accused vide Exh.11. Accused pleaded not guilty and claimed to be tried. In all 10 witnesses were examined by the prosecution. The statement of the accused was recorded u/s 313 of Cr.P.C. Defense of the accused is, relatives of the victim were ready to solemnize the marriage with accused. Accused was also ready but victim was not ready and to avoid the marriage she filed false case on the say of Vijay Torane. Vijay Torane was also not liking the communications, meetings between victim and accused. Victim was under the influence of Vijay Torane and on his say, she filed the false case.

07. The defense examined one witness namely Samadhan Navnath Rajguru (Exh.85) in support of his defence showing that on the day of second incident, he was not present in Pune and he was at his uncle's house in view of death of his grandfather.

08. Heard Additional P. P. Shri. Datrange for the prosecution and Shri. Nasir Shaikh for the accused.

09. Following points arise for determination.
My finding against each point is as under for the reasons given below:-

Sr. No.	Points	Findings
1.	Does the prosecution prove that, since June 2017 accused followed or attempted to contact the minor victim and thereby committed an offence under Section 354-A of the IPC ?	Not proved.
2.	Does the prosecution further prove that, on 20/11/2017 at 11.00 a.m. at Bund Garden Road, Central Mall bus stop, Pune accused committed offence of stalking against the victim and thereby committed an offence under Section 354-D of the IPC?	Not proved.
3.	Does the prosecution further prove that, on the above said date, time and near the lane in front of Sriman Hotel, Pune accused outraged the modesty of victim and thereby committed an offence under Section 354 of the IPC ?	Not proved.
4.	Does the prosecution further prove that, on the above said date, time and place accused snatched Samsung mobile phone of the victim and went away with it and thereby committed an offence punishable under Section 392 of the IPC ?	Not proved.
5.	Does the prosecution further prove that, on 04/12/2017 accused followed the victim and contacted and stopped her at the busstop in front of St. Meera's college and	Not proved.

	thereby committed an offence punishable under Section 354 (d) of the IPC?	
6.	Does the prosecution further prove that on the aforesaid day, date, time and place accused committed criminal intimidation by threatening the victim with injury to her reputation and thereby committed an offence punishable under section 506 of IPC?	Not proved.
7.	Does the prosecution further prove that, on 20/11/2017, at 11.00 A.M. near the lane in front of Sriman Hotel, Pune accused committed sexual assault on the minor victim and thereby committed an offence under Section 7 punishable under Section 8 of the POCSO Act?	Not proved.
8.	Does the prosecution further prove that, since June 2017 accused committed sexual harassment on the minor victim girl and thereby committed an offence under Section 11(v) punishable under Section 12 of the POCSO Act?	Not proved.
9.	What order?	As per final order

- REASONS -

Submissions of the Ld. Spl. P. P. and defence Advocate:

10. Ld. Spl. P. P. Shri. Datrange submitted that, the evidence of PW-1- victim, PW-2 Vijay Torane, PW-4 Vijay Pawar and PW-5 Sunanda Pawar are corroborating to each other on the point of harassment at the hands of accused, insisting the victim to marry with him and on the point of incident, committed by the accused at two places on two dates and threats

given by accused to victim and PW-5. It is also submitted that age below 18 years of the victim is proved from the evidence of PW-8 Rajendra Kadwaikar, clerk from the Karmveer Bhaurao Patil Vidya Niketan School and PW-10 Aparna Anil Basarkar witness from Birth and Death Registrar Office. The spot panchanama is proved from the evidence of PW-3 Nirmala Subhash Pawar, spot panch and PW-9 Smt. Vidya Bhauso Raut, Investigating Officer. The call details are also proved by the prosecution. The Ld. prosecutor placed reliance on the presumption provided U/ss. 29 and 30 of the POCSO Act. In short, it is submitted that the prosecution succeeded to prove the minority of the victim and the offences against the accused beyond reasonable doubt.

11. Per-contra, it is the submission of Ld. Advocate Shri. Shaikh for the accused that victim is not the believable witness. She has filed false case about snatching of mobile and taking of mobile of the victim by the accused. Her conduct is unnatural about non disclosing facts to the closed relatives. On the spot of incident, if she had been made hue and cry, some independent witnesses must have been on the point of those incidents. There is no such independent eye-witness. There are material improvements in the evidence of PW-1, 2 and 4. PW-5 has brought different story, which is not narrated by PW-1, 2 and 4. Her

evidence is totally inconsistent. The victim has neither stated her date of birth in FIR nor in statement before the court. There is no any proper explanation in the FIR and in statement before the court about delay for lodging the report. To avoid the marriage of victim with the accused, which was insisted by the relatives by the victim, she filed the false case. There is no any investigation about the call details of the mobile of the victim. The victim's mobile seems in the name of Himalu Saxena. The statement of Himalu Saxena and Shaikh about panchanama of mobile are not on record. There is a station diary entry showing that the mobile phone of the victim was sold to Himalu Saxena. There is no evidence about CDR of mobile of informant.

12. The defence succeeded to prove that on the second incident, the accused was at the house of his uncle in view of death of his grandfather. He was not present on spot of incident in Pune at the time of first incident. Ultimately, it is submitted that prosecution failed to prove the case beyond reasonable doubt. The benefit needs to be given to the accused. He placed reliance in case of **Wazid Ansari Vs. The Police Inspector, Mapusa & Ors** reported in 2024 ALL MR (Cri)3512).

13. From the evidence of prosecution witnesses, following are the undisputed facts to curtail the evidence of those points.

1. There is relation between victim and accused, accused used to visit the house of victim, there used to be talks between them on mobile.
2. The parents of the victim were dead. After death, she was residing with her uncle PW-4 Vijay Pawar. PW-2 Vijay Torane is friend of her deceased father. He used to assist her. PW-5 Sunanda Pawar is elder aunt of victim.

As to point Nos.1 to 8 :

14. To prove the offences against the accused, prosecution has to prove that :

1. Accused used to harass the victim, insisting her to marry with him,
2. Prosecution has to prove both the incidents.
3. Age of the victim is to be proved less than 18 years.

15. On the point of above two points, there are witnesses namely PW-1 victim, PW-2, PW-4 and PW-5. To prove the age, there is evidence of victim, PW-8 and PW-10.

16. About harassment and two specific incidents, most important witness is the victim. In her deposition at Exh.16, she deposed that her date of birth

is 21/08/2001. She identified the extract of her birth at Article-A. She was studying in 11th Std. in Netaji Subhashchandra Bose, Yerwada, Pune. The accused is relative, talks used to be taken place between accused and her on mobile. She did not recollect the mobile number of herself and accused. Accused stated her that he wanted to marry with her. She told him that she did not want to marry with him. She narrated this fact to her uncle Vijay Pawar and Sunanda Pawar. Her uncle and aunt advised accused not to do such act and also informed this fact to his parents.

17. On the point of first incident, she stated that on 20.11.2017 around 11.00 a.m., in the lane of Shriman Hotel, she was proceeding to her college, accused came behind her on two wheeler, he tried to speak her but she was not interested with accused. He stopped her. He again asked her to marry with him, she refused. He alighted from the vehicle, caught hold her one hand, pressed her throat by another hand and pressed her breast. She tried to call her uncle Vijay Torane. He snatched mobile from her hand and proceeded ahead and threw the mobile and left the place. She got her mobile from that place. It was Samsung mobile. When Vijay Torane came to meet her, she stated above facts to him. She and her uncle's Vijay Torane and Vijay Pawar went to Koregaon police

station and informed this fact to police. Police stated that they will convince the accused. Accused was not called in her presence in police station. (The underlined portions are the omissions in the FIR (Exh.17), printed FIR (Exh.18) and statement u/s 164 of Cr.P.C. (Exh.19).

18. In the FIR and statement u/s 164 Cr.P.C., it is the specific case of the victim that accused snatched the mobile, took mobile with him and left the place.

19. On the point of second incident dated 4.12.2017, she deposed that on the road of St. Meera College, accused came behind her, said to her that, he wanted to speak with her, she said that she did not want to speak with him, accused threatened her to viral her photos in his mobile, accused said that photographs are not to be seen and thereafter would be viral, victim asked which photos and where they were taken. Accused said that do not ask and victim should marry with him and if she would not be of him, accused would not allow her to be of anyone. Accused threatened that photos would be viral to her relatives. Thereafter, he went to her college. She frightened. She narrated this fact to her uncle Vijay Torane and Vijay Pawar on next day. Thereafter, they went to police station on 12.12.2017. (The underlined portions are the omissions in FIR and statement u/s. 164 Cr.P.C.)

20. The victim explaining the delay of lodging of Report on 12.12.2017. She deposed that accused was her relative, she was not having parents, her uncle's were maintaining her, in that matter, they were annoying her, there was pressure from the family to marry with the accused, why police complaint was to be filed and, therefore, there was delay for taking the decision to lodge the report. She proved Exh.17 and printed FIR Exh.18.

21. The victim deposed mobile number 7218288257 of her mobile number. Her supplementary statement was recorded about clarification that accused had thrown the mobile and he had not taken her mobile along with him. The snatching of the mobile and throwing of the mobile on the spot which was recovered by the victim from the spot of incident happened on 20.11.2017. So the fact of mobile phone was not taken by the accused, it was thrown on the spot, and it was found by the victim, was within her knowledge from 20.11.2017. Surprisingly, she has not stated said fact in her FIR (Exh.17) on 12.12.2017 and in her statement U/s. 164 Cr.PC. recorded on 16.01.2018. The victim was studying in 11th Std.

22. The principle *falsus omnibus falsus uno* is not applicable in India. It means i.e. falsity on some point cannot be considered to discard the entire

prosecution case. It is the settled principle of law that to appreciate the evidence of prosecution witnesses, falsehood is to be separated from the truth. The question is whether in this case, the falsity about the allegation of the accused took away the mobile mentioned in the FIR and thereafter explanation about it was thrown by accused on the spot and she found on the spot can be separated. The incident is to be considered as a whole. The incident of the snatching the mobile is a part of incident, therefore, it cannot be separated from the remaining acts committed with the victim.

23. The FIR and statement U/s. 164 Cr.P.C. if compared, it is seen that the contents are similar in parawise. In both of the exhibited documents, she has not stated that when Vijay Torane came to meet her, she stated the incident of 20.11.2017. Thereafter, she, Vijay Torane and Vijay Pawar went to Koregaon Park police station. Police stated that they will convince the accused. This is also an important omission. The question remains unanswered that when the matter of 20.11.2017 was reported to the police, why the offence was not registered, when the victim was minor and there was a specific allegation of pressing of her breast and snatching of the mobile.

24. The explanation of the delay as deposed by the victim, should have been reflected in the FIR and statement (Exh.19). The absence of that explanation also a doubtful.

Unnatural conduct of the victim :

25. Looking to the allegations about incident dated 20.11.2017 that when she tried to telephone Vijay Torane, accused snatched the mobile and took that mobile with him. The natural conduct of the victim was to inform this fact immediately to Vijay Torane and Vijay Pawar, but that natural conduct was absent. Similar is the fact of incident dated 04.12.2017. Having regard to the threats of making the obscene photographs of victim viral among the relatives, this fact should have been informed to the relatives immediately on the same day or on the next day. The FIR and statement (Exh.19) clearly shows that after thinking about both the incidents dated 20.11.2017 and 04.12.2017, on 11.12.2017, she talked with Vijay Pawar and thereafter, on 12.12.2017, the report was lodged. This conduct is also not appealed to the mind of the prudent man. It has brought on record that in FIR, statement Exh.19, she has not disclosed her date of birth. She has not stated her mobile number or the company of the mobile.

Corroborative evidence :

26. PW-2 Vijay Torane in his evidence Exh.23, reveals that at the time of incident, victim was about 16 years. When he went to shop of Vijay Pawar, Vijay Pawar and victim were present there, victim was weeping, he inquired with victim, victim narrated him name of Satyawar Nanaware, harassment by accused, she was not ready to marry with him, incident happened near Shriman Hotel i.e. the first incident. The witness asked the victim why she has not narrated to her earlier, victim replied that she was frightened of Satyawan. She further stated that accused threatened her. So it is about the first incident. From this evidence, one thing is clear that she had not narrated the first incident to this witness, prior to second incident as deposed by the victim in her deposition. Thereafter, the witness deposed that second incident happened with her was narrated by her later on. This witness also improved the version deposing "after the first incident, victim herself, her uncle and cousin aunt had been to police station, the victim and they told the above incident to police, police said to them that accused would be called and he would be persuaded not to repeat such incident in future." Portion marked – A in her statement admitted by her as correctly recorded. The narration of the first incident prior to second incident and they went to police station, is not found

place in her statement. Therefore, his deposition is also doubtful on that point. From the admitted contents of the statement, there is no doubt that after both the incidents, the witness was narrated by the victim.

27. PW-4 Vijay Pawar is the real uncle of the victim. He deposed that on one day, victim came by weeping in his shop. The witness started weeping at the time of his deposition. The witness asked the victim where was mobile. Firstly, she has not told anything but thereafter, she told that one boy harassed her at St. Meera High School. That boy was Satyawar Nanaware. He is the son of his maternal uncle. She narrated that she was harassed near Shri Man Hotel at Band Garden. She further told that her breast was pressed, she was beaten. Thereafter, she telephoned to Vijay Torane. Vijay Torane came to the shop where victim narrated the second incident.

28. In cross-examination, the witness admitted “ it is correct to say that prior to narrating the incident, victim had not stated anything against Satyawar.” He, Vijay Torane and victim went to police station. Vijay Torane had given information to police, police written down the report as per his say.

Last witness – Sunanda Pawar about harassment :

29. Prior to discuss her evidence, it is worthwhile to mention here that, neither in the FIR nor

in the statement recorded u/s 164 of Cr.P.C. nor in the deposition of victim and above two witnesses, they have stated or deposed about narrating of the incident happened with victim to PW-5 Sunanda Pawar.

30. Her evidence disclosed that in 2017, the friend of her brother in law telephoned to her and informed her that one Satyawar is threatening that girl to marry with him. She talked with victim on the mobile of Vijay Torane. She told her incident. Victim said "Satyawar had come out of the gate of St. Janabai Hostel. He threatened her. He said that she had to marry with him. The witness said the victim to go to police station and lodge the report." Thereafter, Satyawar telephoned during 11.00 p.m. to 04.00 p.m. repeatedly and said that witness had done wrong. Witness asked him to come to her and speak with her. Accused threatened that he was having knowledge of her family. She was having one son and he will take the revenge of son at any place in Pune. She felt that accused was angry as she had given the assistance to the victim by admitting the victim in woman's hostel. In view of the admissions of the victim, accused was prevented to meet the victim and talk with her.

31. Another important aspect which is not stated by earlier discussed witnesses was deposed by this witness. She deposed that after the above incident,

Surekha telephoned her and informed her that Satywan told Surekha there was marriage of accused and victim and he was having photographs evidence where they had been for the tour. After that the witness had called victim at her village and asked about truthness of the above facts. The victim stated that it was not the truth. It was a false. Thus, this witness has further improved the allegations against the accused which was not stated and deposed by the victim and earlier witnesses.

32. Another important aspect is about the incident of two occasions. She deposed that friend of father of victim telephoned her and informed the incident of pressing the breast i.e. incident on 20/11/2017. She asked the victim about her mobile, victim stated that accused snatched her mobile. She further deposed that thereafter, she telephoned to Bhagwanrao Vairat, President of Maharashtra Suraksha Zopadpatti Dal. That person telephoned to Koregaon Park police station. That person informed the witness to go to Koregaon Park police station. Thereafter, the witness came in Pune, saw the victim.

33. From the entire evidence of above witnesses, the doubtful circumstances are;

- (i) As per PW.4 Vijay Pawar, the victim had not stated anything about the Satyvan

prior to narrating of both the incidents to him. So, it is doubtful whether victim had narrated the harassment of talking on the mobile phone, accused was insisting to marry with him; this fact was brought to the knowledge of PW.4 Vijay Pawar and PW.5 Sunanda Pawar. They convinced the accused and informed the parents.

(ii) Another doubtful circumstance is whether prior to narrating of this incident, actually incident narrated by PW.5 near the gate of hostel was happened and whether accused threatened PW.5 to take the revenge of her son. It is not the case of prosecution in that regard.

(iii) By narrated to PW.5 Surekha on telephone about informatin given by accused to Surekha about their marriage, their photographs and they had been to other places.

(iv) Falsity about snatching of the mobile phone of victim and taken by the accused. Non disclosure of finding of mobile on the spot by victim to the police and the

magistrate as well as to the above 03 witnesses P.W. 2, 4 and 5.

(v) For the first time when P.W.4 asked where was the mobile of victim, she narrated the incident of the both occasions and not informed the finding of the mobile on the spot.

(vi) Lastly, telephone by P.W.2 Vinay Torane to P.W.5 Sunanda Pawar. Thereafter she informed to the President Bhagwanrao Vairat. Said Bhagwanrao informed to Koregaon park police station and thereafter they went to Koregaon park police station.

Cumulative effect of all these circumstances creates doubt about genuinences of the incident.

Spot of incident:-

34. The victim has stated that she had shown both the spot of incidents to police. There is evidence of panch witness P.W3 Nirmala Pawar. She deposed that two spot of incidents were shown by victim, first spot of incident was in front of Bundgarden near Shriman hotel near to gate and second spot of incident was on the road of St. Mira College, Koregaon park road, Pune. They inspected both the spot of incidents. Thereafter they went to Koregaon park police chowky. Raut madam prepared the writing mentioning all details of the spot and obtained their signatures. She

proved her signature and signature of Surekha. That spot panchanama is at Exh. 25. There is evidence of I.O. on that point. So far as preparation of spot panchanama, I am not inclined to accept the argument of defence lawyer that, panchanama is only of the spot of incident of first incident and not of second incident. There is specific description of both the incidents in the panchnama. Only in the map, the first incident is mentioned, but that aspect does not sufficient to disbelieve the independent panch witness and Investigating Officer.

35. The spot of incidents are on public places having the traffic. The victim in her cross-examination deposed that she had made hue and cry. Considering the aspect of putting the hand on the person of victim, her breasts were pressed, mobile was snatched and victim had made hue and cry, it is but natural to gather some of the persons on the spot of incident, but nobody witnessed that incident. The defence advocate much emphasized on the point that there is no entry taken in the station diary by the Investigating Officer that he searched CCTV footage and no CCTV footage capturing the spot of incident were found. I am not accepted this aspect on the ground that negative facts are not required to be mentioned. The fact is relevant that, after the two incidents, the victim has not

narrated the incident to nearby persons to the police station and to her relatives immediately.

36. PW.6 Sunil Khandu Jagdhane is the panch witness about the seizure of one white colour mobile of Gionee Company. Witness was cross-examined by the prosecutor but he denied that above mobile was seized from Himalu Saxena. PW 9 Vidya Raut, Investigating Officer, deposed that she arrested accused, seized mobile of accused from him vide panchnama Exh.69, seized mobile was sent to C.A. The report is at Exh.71. He sent letter to call the CDR of mobile of accused vide report Exh.72. The reports are on record. The Investigating Officer in cross-examination admitted that the mobile was seized from Himalu Saxena. It is seen from the evidence of PW 6 and PW.9 that panchnama although was referred to PW 6, that panchnama was not proved. The Investigating Officer admitted in cross-examination that one mobile was seized from Himalu Saxena. The CA report Exh.71 is proved in the evidence of PW 9. The result of the CA report is referred as under:-

2] Obscene messages were not found between accused mobile number '9657540462' and victim mobile number '7218288257' in mobile phone Ex-1.

3] Pornographic images and videos were not found in mobile phone Exh-1.

37. Panchnama Exh.69 reveals that the panchnama was prepared under the pretext of memorandum given by accused to show the person Himalu Walmiky Saxena to whom he had sold his mobile of Gionee company and in view of that statement, the mobile was seized from that person. That panchnama is of 19/01/2018. There is no evidence on record to show that when accused had sold this mobile to Himalu Saxena whether prior to both the incidents or after the incidents. No any obscene messages or photographs are found in that mobile as per CA report. Therefore, this aspect is against the prosecution case.

38. The defence lawyer in his argument pointed out one report of Investigating Officer about station diary No.31/2018 dated 19/01/2018. That report shows that accused Satyawar Navgire had sold the mobile of victim to the owner of Sonali Internet and it was seized from Himalu Saxena, which was seized. So, it is also doubtful whether the panchnama is correct or this station diary is correct. Two different facts about whose mobile was seized is suspicious circumstance.

39. PW.7 Dattaram Shantaram Angre is a Nodal Officer of Vodaphone Idea Cellular Ltd. The police documents CAF, CDR, SDR & tower location of mobile

number 9657540462 for the period 12/09/2017 to 31/12/2017 was sought. Witness proved his certificate u/sec. 65-B at Exh.47, CAF in the name is Balasaheb Vinayak Nanaware (Exh.48), copy of election card and CDR (Exh.49 & 50). Statement of Balasaheb Nanaware is not recorded. The CA report (Exh.71) reveals that the information about obscene messages were sought from mobile No. 9657540462 i.e. alleged number of accused in the name of Balasaheb Nanaware, which is seized from Himalu Saxena and another number 7218288257 of victim. Surprisingly, neither in the FIR (Exh.17) nor in supplementary statement of victim dated 26/02/2018 nor in the statement before the JMFC (Exh.19) the victim has stated her mobile number as 7218288257. There is no question of stating of this number by PW 2, 4 and 5. They have not deposed about that. So, question is as to how the Investigating Officer came to know about this number of the victim. The second unanswered question is why as per the supplementary statement, the mobile of the victim was not seized from the victim during investigation. It was the important piece of evidence, so there is doubtful evidence of prosecution on the point of mobile of the victim and accused.

Age of the victim :-

40. The victim stated in her deposition that her date of birth is 21/08/2001. That date of birth is not

mentioned in the FIR and statement U/sec. 164 of the Cr.PC. The victim stated that her Aadhar card was seized by the police and she identified that Aadhar card. On that Aadhar card, same date was stated to have been mentioned. That Aadhar card is not proved but it is marked as Article-B.

41. PW 8 Rajendra Yashwant Kadwaikar is the clerk in Karmveer Bhaurao Patil Vidya Niketan School, Yerwada, Pune. He was authorized to give deposition vide Exh.61. In his school, general register is maintained which was brought by him. In that register, the entry No.9315 is in respect of victim. She had taken education in the school in 8th Std. of 2014. The leaving certificate of earlier school was submitted by the student in their school. That certified copy is at Exh.62. That certificate is of Loknete Yashwantrao Vidyaniketan School, Yerwada, Pune. As per that certificate, date of birth of victim is 21/08/2001. On the basis of that same, date of birth was registered in their register. The verified copy of the extract is at Exh.63. The witness candidly admitted that he does not know how entry of date of birth is taken in to the record of Yashwantrao Chavan School.

42. PW. 10 Aparna Anil Basarkar, is the additional Registrar of Birth and Death Department, PMC, Pune, authorized officer for registration of birth

of child. The original birth certificate (Exh.77) was issued by their department. As per that certificate, the victim was born in Sassoon Hospital, Pune. For registration of birth, janani-varta form was sent from Sassoon Hospital to their department. As per that document date of birth of victim was 21/08/2001. Original register was brought by him and certified copy of janani-varta form is at Exh.78. This document is having presumption for proving the age of victim as per the case of P. Yuvaprakash. On the basis of janani-varta form, the date of birth was entered in their hospital. So, date of birth 21/08/ 2001 is proved. The incident occurred on June 2017 to 04/12/2017. So, on the dates of incidents dated 20/11/2017 and 04/12/2017, the victim was below 18 years old. More particularly, she was of the age of 16 years 03 months.

Evidence of defence :-

43. Defence witness Samadhan Navnath Rajguru (D.W.-1) is the uncle of accused. In 2017, he was resided at Shirbhawe, Tal-Sangola, District-Solapur. Chandrakant Nanaware was grandfather of accused. He was his distant relative. He died in the month of December. He was at Pandharpur on that day. Along with him, he and his family members and Satyawar were there. Satyawar was resided at his village for four days with him. He admitted that he has no

documentary proof that accused was resided with him for four days. Attention is invited on the death certificate of Chandrakant. He admitted that as per that certificate, the date of death is 02/12/2017. The defence lawyer has filed the citation about admissibility of that certificate (Exh.88). The principle laid down in **Wazid Ansari Vs. The Police Inspector, Mapusa & Ors reported in 2024 ALL MR (Cri)3512** that,

“Production of additional documents. Public prosecutor not empowered to file application for production of photographs/ documents, not collected by investigating agency and not relied upon in charge sheet.

44. It has come in the evidence of PW 2 Vijay Torane that deceased was grandfather of accused and he had been to that funeral. There is evidence defence witness. Without going into the merit, whether the death certificate is admissible or not, assuming that, the death was occurred on 02/12/2017, it is but natural for relatives to remain present for the last ritual of the deceased. Second incident occurred on 04/12/2017 on the day of death. So, probability of absence on the day of second incident is there.

Conclusion:-

45. The prosecution succeeded to prove that the victim's date of birth is 21/08/2001 and on the dates of incident, she was less than 18 years. There are

contradictory facts, unnatural conduct of the victim, falsely lodging the report about taking over the mobile of the victim by the accused, false evidence about after the first incident, she narrated first incident to PW-2 Vijay Torane and PW-4 Vijay Pawar, they had been to police station and police informed that, accused will be called and may be given understanding not to commit such type of incident in future. The falsehood of taking the mobile by the accused cannot be separated from the truth because it is interlinked with the incidents. Therefore, when evidence of all 04 witnesses is doubtful, there are improvements, unnatural conduct, prosecution failed to prove the charges against accused beyond reasonable doubt. Initial facts are not proved against the accused beyond reasonable doubt. Therefore, presumption u/secs. 29 and 30 of the POCSO Act are not attracted. As per the settled principle of the law, the benefit of doubt needs to be given to the accused. So, my findings to point Nos. 1 to 8 are in the negative. Accused deserves to be acquitted. Hence, I proceed to pass following order :

ORDER

01. The accused **Satyavan Balasaheb Nanavare** is hereby acquitted vide Section 235 (1) of the Code of Criminal Procedure of the offences punishable under sections 354-A, 354-D, 392, 506 of the Indian Penal Code, 1860, and under Sections 7 punishable under

section 8 and U/s. 11 (v) punishable U/s. 12 of the Protection of Children from Sexual Offences Act, 2012.

02. The seized property i.e. mobile handset which was seized from the shop owner shall be returned to him after appeal period is over and after confirmation that appeal or delay condonation application is not pending.

03. The accused be released forthwith if not required in any other case.

04. In case of appeal filed by the prosecution, accused to comply the provision of section 437-A of the Cr.P.C. by executing PB & SB of Rs. 25,000/-.

Sessions Case No.172/2018 is disposed of.

(Judgment is dictated and declared in Open Court)

Date:-07/10/2025.

(Mahendra K. Mahajan)
Special Judge, Pune.