

Exh. No.210

MHTH270006652023 	Presented on : 26.07.2016 Registered on : 26.07.2016 Decided on : .15.12.2025 Duration : 09Y. 04Ms. 19Ds.
---	--

FORM NO. XXXII

Part 'A'

(Title Page of Judgment)

[Para 44(i) of Chapter VI of Criminal Manual]

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BELAPUR.

Presented before :- Parag A. Sane, Addl. Sessions Judge, Belapur.

	SESSIONS CASE NO.	60/2023
	Old Thane Sessions Case No.	237/2016
	FIR/Crime No.66/2016	
	Police Station : Vashi	
Complainant/ Prosecution	The State of Maharashtra, through Vashi Police Station	
Represented by -	Ld. A.P.P. Shri. Yogendra Patil.	
Accused	1] Sagar Baburao Dhulap Age 27 years, Occu. Service, R/at Tembhi Pada, Bhandup,	

	Mumbai.
Represented by	Ld. Advocate Shri. Raut for accused

Part 'B'**[Para 44(ii) of Chapter VI of Criminal Manual]**

Date of Offence: 13.02.2016
 Date of FIR : 14.02.2016
 Date of Charge-sheet: 03.05.2016
 Date of framing of Charges: 02.05.2017
 Date of commencement of Evidence: 07.07.2017
 Date of which judgment is reserved :
 Date of the Judgment: 15.12.2025
 Date of Sentencing the 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	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428
1.	Sagar Baburao Dhulap	14.02.2016	In jail	u/s. 376, 170, 384 r/w. 34 of Indian Penal Code.	Convicted	As per final order	14.02.2016 till today.

Part "C"

[Para 44(ii) of Chapter VI of Criminal Manual]

List of prosecution/Defence/Court witnesses.

A Prosecution :

Rank	Name	Nature of Evidence.
P.W.1	Victim 'X', Exh.11	Informant
P.W.2	Madhukar Sakharam Jadhav, Exh.15	Panch witness
P.W. 3	Mohan Gundaji Sonawane, Exh.20	Panch witness
P.W. 4	Shatrughna Shrirang Jadhav, Exh.26	Panch witness
P.W. 5	Vinod Krushna Pujary, Exh.28	Witness
P.W. 6	Shijay Rampher Gaud, Exh.29	Panch witness
P.W.7	Father of Victim, Exh.34	Witness
P.W.8	Asmit Nanasaheb Kondalakar, Exh.53	Witness
P.W.9	Dr. Sumedha Modi Gupta, 60	Medical Officer.
P.W.10	Dr. Vilayalaxmi Nagesh Sakolkar, Exh.68	Medical Officer.
P.W.11	Vasudeo Bhimrao More, Exh.73	I.O.
P.W.12	Vijay Eknath Shinde, Exh.93	Nodal Officer
P.W.13	Sanjog Kailas Bacchav, Exh.99	Witness
P.W.14	Sunish Subhashchandra Tiwari, Exh.103	Nodal Officer.

B. Defence witnesses, if any :

Rank	Name	Nature of Evidence.
----	-----	-----

C. Court Witnesses, if any :

Rank	Name	Nature of Evidence.
	NIL	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS.**A. Prosecution :**

Sr. No.	Exhibit	Description
1.	Exh.12, PW1	F.I.R.
2.	Exh.12A, PW1	F.I.R. Form
3.	Exh.13, PW1	Statement of Victim.
4.	Exh.16, PW2	Panchnama
5.	Exh.21, PW3	Panchanama
6.	Exh.27, PW4	Panchanama regarding clothes
7.	Exh.30, PW6	Panchanama regarding clothes
8	Exh.61 & 64 PW9	Letters
9	Exh.62, PW9	MLC
10	Exh.63, PW9	Certificate
11	Exh.65 & 66, PW9	Report
12	Exh.69, PW10	letter
13	Exh.70, PW10	Certificate
14	Exh.74 to 78 PW11	Letters
15	Exh.80, PW11	Documents regarding I.D.Card.
16	Exh.81 to 83, PW11	Muddemal Receipts
17	Exh.84 to 86, PW11	Letters.
18	Exh.94, PW12	Letter
19	Exh.95, PW12	Customer Application form and I.D. Proof.

20	Exh.97, PW12	Mobile & deta
21	Exh.98, PW12	Certificate u/s.65-B
22	Exh.100, PW13	Arrest Panchanama
23	Exh.101, PW13	Muddemal receipt
24	Exh.102, PW13	Label
25	Exh. 104, PW14	Customer Application Form.
26	Exh.105, PW14	Tower location of Mobile and CDR.
27	Exh.106, PW14	65-B Certificate
28	Exh.107, PW14	Covering letter.

B. Defence :

Sr. No.	Exhibit	Description
1	NIL	

C. Court Exhibits :

Sr. No.	Exhibit	Description
1.	Exh.7	Charge.
2.	Exh.209	Statement of accused persons u/s 313 of Cr.P.C.

D. Material Objects:

Sr. No.	Material number	Object	Description
1	A		Mobile
2	B		I.Card.

J U D G M E N T

(Delivered on 15th day of December, 2025)

1] Accused is chargesheeted for the offence punishable under Section 376, 170, 384 of Indian Penal Code.

2] **Case of the prosecution in brief is as under:**

First informant 'X' (name not disclosed) age-22 years, Occu-Education, R/of Vashi filed report on 14.02.2016 that on 13.02.2016 she along with her friend Asmit at about 11.00 a.m visited Bandra Chaupati from Vashi. When they were returning back as both of them were tired in order to take rest they visited Prakash lodge at Kurla. They stayed their for one hour and thereafter at about 3.00 p.m they proceeded from Kurla and reached Vashi railway station at 5.00 p.m. When she was walking at about 5.30p.m one person suddenly stopped her and stated that he want to speak with her and he is a police. He told that he is following her from Kurla and stated her that she has visited with her friend at Prakash lodge and done certain illegal act. He stated that he will inform the said incident to her parents and he will file case against her friend otherwise she should pay sum of Rs.30,000/- and started to demand money. She was frightened, she told that she is not having any money then that person checked her purse. As the first informant was not having money with her, the said person told her that she should follow him otherwise he would informed her parents and will take action against her friend. She followed him in auto rickshaw because he was a police then he took her to one lodge at A.P.M.C. market named

Pushpak lodge. When the first informant met inquired with her for the purpose he told that she should have physical relations with him and if she refused he would inform her parents and will take action. Out of fear the first informant left with no alternative but to follow that person who taken in lodge where he also stated that he is a police and if the first informant did not pay Rs.30,000/- on next day then she should bring gold from her house otherwise he would file case. The first informant refused the same and then he had forceful sexual intercourse with her. Then the said person made enquiry about address of the first informant and told that he will follow her and told that he should not inform the incident in her house. Thereafter, the said person visited first informant's house where he told that he is a staff of Modern College and he disclosed his name as Sagar Baburao Dhulap and thereafter he went away. The first informant was frightened. After some time Sagar Dhulap made an a phone call on her mobile and demanded Rs.30,000/- to be paid on next day otherwise she should bring gold ornaments and if she failed to do so he will file case against her. The first informant told him that she will make necessary arrangement of money at 11.00 a.m on next day. Then he stopped to make phone call. The first informant was frightened hence she could not disclose the said fact to family members.

On 14.02.2016, he again called first informant demanded money and called her to railway station and if the first informant would not be in position to pay amount she should come to lodge. Then the first informant told that she would pay amount at evening

and at that time Sagar Dhulap told that she should meet at 8.30 p.m near Vashi railway station. Thereafter, the first informant narrated the incident to her parents and thus she filed report to police. On the strength of this crime no.66/2016 came to be registered.

3] During the course of investigation, accused was arrested on 14.02.2015 from him mobile was seized, his clothes were seized, clothes of victim was also seized. Spot panchanama came to be prepared. During the course of investigation, investigation officer recorded statement of witnesses, obtained record from Prakash lodge. Medical examination of the victim was done. Medical examination of the accused was done. During the course of investigation, it was transpired that accused was working as a security guard. It is further transpired during the investigation that even though the accused is not a police by personification by stating false that he is a police he demanded sum of Rs.30,000/- to the complainant otherwise to give gold ornaments. By threatening complainant that he is a police person and he will take action against the first informant and her friend he has forcefully committed sexual intercourse with the first informant. Thus, the investigation officer submitted chargesheet against the accused.

4] Offence is exclusively triable by the Court of Sessions hence the learned J.M.F.C. committed case in view of Section 209 of Cr.P.C.

5] On hearing both the sides charge is frame at Exh.7. Particulars of charge were read over and explained to the accused in vernacular to which he pleaded not guilty.

6] Prosecution has examined witnesses. Statement of the accused u/s. 313 of Cr.PC and u/s. 313(5) came to be recorded.

7] In defence, the accused has not lead any evidence.

8] I have heard arguments canvassed by learned APP Mr. Yogendra Patil and the learned counsel Shri. Raut for the accused at length.

9] Considering the case of the prosecution, evidence led by the prosecution, theme of cross-examination, answers given by the accused while recording his statement u/sec 313 of Cr.PC and after hearing the arguments canvassed by both the sides, following points arise for my determination to which I have recorded my findings before them for the reasons discussed therebelow.

S.No.	POINTS	FINDINGS
1.	Whether the prosecution proves that on 13.02.2016 at about 5.30 p.m., at Saisakshi lodge, Janata Market, APMC within the jurisdiction of Vashi police Station, accused threatened the prosecutrix 'X' aged 22 years to make a criminal case against her and will	Proved.

	disclose her relation with her boyfriend to her parents and forcibly taken the prosecutrix at the lodge and committed forceful rape upon her without her consent against her will and thereby committed an offence punishable u/s.376 of I.P.C.?	
2.	Whether the prosecution proves that on the same date, time and place accused pretended to be a police man, knowing that accused were not holding such post in such assumption, attempted to force the prosecutrix above named threatened her to implicate in criminal case and with intent to compel her to have sex with her and thereby committed an offence punishable u/s.170 of I.P.C.	Proved.
3.	Whether the prosecution proves that from 13.02.2016 at 5.30p.m. to 14.02.2016 till 8.30 p.m, at ICL School, Sector-15, Vashi at Saisakshi lodge, Janata Market, Turbhe, accused intentionally put the above named prosecutrix in fear of implicating her in criminal case and to disclosing her relation with her boyfriend to her parents and dishonestly induced her to deliver cash Rs.30,000/- or to come with accused in lodge for having sexual intercourse with accused against her will and thereby	Proved.

	committed an offence punishable u/s.384 of I.P.C.?	
4.	What order?	.. As per final order.

REASONS

As to points no. 1 to 3 :

Arguments:

10] Ld. APP, Mr. Yogendra Patil, while canvassing his arguments, submitted that the evidence of PW1 prosecutrix is not disbelieve. He submitted that the accused has told her that he is a police and by making an a false statement he has threatened the first informant to pay sum of Rs.30,000/- otherwise to give gold ornaments. He submitted that that the accused has committed rape on victim. He submitted that the evidence is cogent and consistent and there is nothing to disbelieve evidence. Hence, he submitted that the accused be convicted.

11] On the other side the learned Mr. Raut while canvassing arguments submitted that it is highly impossible to a person to follow any girl from crowded place of Kurla and to follow her till Vashi. He submitted that there is a concocted story. He submitted that in such contingencies the evidence of the prosecutrix could not be reliable. He further submitted that there is no CCTV footage. He also submitted that as per the medical report the victim is habitual for sex He further submitted that there is inconsistency in the evidence of

the prosecution witnesses accordingly, he submitted that the prosecution has failed to prove that the accused has committed rape on the victim. He submitted that how it is possible that victim will took accused to her house and till then also she will not inform the incident in the family members. He further submitted that when the first informant meet the accused in a public place more particularly near Vashi railway station and it is a crowded place so it was quite possible on the part of the first informant to run away or to shout for help which she did not do so and thus he submitted that the false case has been made. He submitted that hence the accused be acquitted as the charge levelled against him is not been proved beyond reasonable double.

12] Before discussing the evidence on record in view of the arguments canvassed by both the sides here on the strength of the evidence and more particularly from the theme of cross-examination the defence set up by the accused is in two fold in nature.

- i) That he has been falsely involved in crime and he has not done any act.
- ii) That he is a having love affair with the victim and when he found he victim with another boy the accused scolded her hence she took him to lodge for discussion. It is also defence that there is a consensual relationship.

13] Now, it is necessary to discuss the entire evidence.

14] PW1 'X' Victim at Exh.11 stated in her evidence that on 13.02.2016 she and her friend Asmit visited Bandra Chaupati and thereafter as they were tired they went to Prakash lodge, Kurla for rest. They stayed there for one hour and then they returned to Vashi by train. When she was walking to proceed to her house near ICL School at Sector-15 Vashi at about 5.30 pm one unknown person stopped her. That person stated her that he want to speak with her and he is a police, he shown his I Card. He further stated that he followed her and her friend from Kurla. He stated that raid is effected on lodge at Kurla where they stayed. He stated that if she wants to save herself from criminal case she should pay sum of Rs.30,000/-. She stated that she was frightened as he has shown his I.D. of police. The victim stated him that she is not having money but that person took search of her purse and he stated that if she did not pay money he will narrate all facts to her parents. He also threatened that if she did not pay money she should follow him at the place where he said. He gave threat that he is a police. So she was frightened. She was under impression that he is a police. Thereafter, that person stopped rickshaw and took her to Pushkar lodge at APMC. She requested him not to talk any thing to her parents. Then he took her to lodge. He further stated that if she cooperate for sexual intercourse he will not tell anything to her parents and will save her from criminal case. She refused for sexual intercourse but he was threatening her , she could not escape and ultimately that person committed sexual intercourse her without her consent. After the said act he again demanded Rs.30,000/- and was threatening.

Ultimately she took him to her house He introduced that person that he is a staff from Modern College then they went down. That person was having her mobile number. Her father saw that she is frightened. Then he took mobile from that person and then he went away. She further stated that after 5 to 10 minutes he phoned her and stated that she should pay Rs.30,000/- in order to save from criminal case. He also stated that if she is not having money she should give gold to which she stated that she will arrange for money till 11.00 a.m., on next day. She further stated that thereafter he called her for 5 to 6 times at the interval of 5 to 10 minutes and demanded the said amount and also threatened her. Her father and sister saw that somebody was calling her and she was frightened. She further stated that as she was frightened she could not disclose anything to her parents. He repeatedly called her till 10.00 p.m.

15] On 14.02.2016 at 11.15 a.m. he called her and asked whether she has arranged of Rs.30,000/- to which she replied that she could not arrange the same then he asked to arrange for gold which she refused. However, that person threatened her and asked her to come to lodge. Then, she stated that she will arrange money. At that time her family members listen conversation on phone and at that time she realized that if she did not give money he will sexually assault her repeatedly. Then she narrated the incident to her family members. She has further stated that she told that person that in the evident she will arrange for money and after discussion it was decided that they will meet near station and then she filed report to

the police which is at Exh.12. She further stated that the amount was to be paid at Vashi railway station in evening. She was sent for medical examination. She has further stated that her clothes were seized, statement was recorded u/s 164 of Cr.P.C. She has identified the accused.

16] The witness is duly cross examined whereby she stated that her date of birth is 19.12.1994. He was knowing Asmit who is her friend. She denied that she is having love affair with Asmit. She admitted that it took around 20 to 25 minutes to go from Kurla to Vashi by train. She was questioned regarding place where Prakash lodge is situated. She denied that she had physical relations with Asmit at Prakash lodge. After reaching to Vashi railway station when she was proceeding to her house, she stated that she was walking at that time. There are several questions put regarding Bandra Chaupati and the place where they wandered. However, I am of view that the places where Asmit and her travelled other than the Prakash lodge the questions to that extent are immaterial.

There is a suggestion given to the witness whereby she has denied that she knows accused Sagar Dhulp since long. She admitted that she and Asmit did not notice that somebody is following them, She admitted that when she was near ICL School there was a crowd of parents and students. There are shops and houses near school. She stated that she could have shouted when unknown man came forward and obstructed her. Accordingly, the learned counsel for the accused submitted that she had the opportunity to shout but as she

did not shout her contention has to be discarded and the case of the prosecution is to be doubted. However, I am of view that considering the age of the victim coupled with the entire case of the prosecution I am of view that only this factor will not be sufficient to discard the entire case of the prosecution. However, the witness while stating above facts has particularly stated that as the accused stated that he is a police. Hence, She did not shout.

17] The witness is cross examined on the aspect that she has not taken help from the neighbours as well as she admitted that she did not visit Pushpak lodge earlier. The witness is cross examined that why did she go with the accused as she did not want to disclose that she had gone with Asmit to one lodge to your family. The witness answered this question that the accused has shown his I.D. Card as police and threatened that he will disclosed her family members that she has visited one lodge with boyfriend, hence she went with him.

It is further coming in her cross examination regarding the place of the Pushpak lodged. However, it is to be noted that the mental condition of the victim at the relevant time is to be taken into consideration. She also admitted that she did not ask for any help at Pushpak lodge. For all these reasons she has stated that there was the threatening at the hands of the accused.

18] The learned counsel for the accused while canvassing argument has pointed out that there are certain omissions in her

statement. However, it is to be noted that the entire evidence has to be considered. Because here it is important to note that the witness is duly cross examined and the material aspect of the suggestions plays an important role in this case. **The witness was put question that she was knowing accused Sagar Dhulap for last three years and she was having love affair with him which she has denied. She has also put question that when the accused saw her with Asmit therefore he got annoyed so she took him to lodge for talking. Which she has denied. Further more that the accused has come to her house only to propose her which she has denied.** So all these suggestions are considered according to the accused himself he was knowing to the victim and there was the love affair with the victim. However, these suggestions are denied by the victim but the important aspect which is coming is that according to the accused himself he got annoyed when he saw victim with Asmit then victim took him to one lodge for talking so this material aspect particularly shows that the victim and the accused as visited lodge. In such contingencies the question in which lodge the accused and the victim visited is considered regarding the name of the lodge and the fact to that extent some dispute regarding the name of the lodge does not play important role. Moreover, from the evidence it is coming on record that the name of the lodge changed during the time. **Another important aspect the suggestion which was given to the victim is that she wanted a better boy than the accused therefore she was avoiding him.** Here it is important to note that this suggestion plays an important role in the present set of facts. It is so because it is the case of the

prosecution that the accused has followed the victim from Kurla to Vashi and in such contingencies, according to the accused himself, he was knowing the victim. The witness has denied that the accused has not committed any forceful sexual intercourse with her.

Here, on going through the evidence of the victim it is seen that there are certain omissions but it is important to note that certain portion of omission are stated by victim in her statement u/s.164 of Cr.P.C. Furthermore, considering her entire evidence the omissions are not going to the root of the matter in order to discard and disbelieve her evidence. Moreover, her evidence is reliable in nature.

19] The prosecution has examined **PW13 Sanjog Bacchav at Exh. 99** and it is coming from his evidence that on 14/02/2016, he was attached with Vashi police station and when he was on duty, the first informant filed report. Accordingly, FIR came to be registered which is at exh. 12A in his presence by a lady police officer after he heard the details from the first informant. The accused was going to meet the victim at Vashi railway station. Accordingly, at that time, with the complainant, the police were sent and they caught the accused. Thereafter, he arrested the accused who was found with mobile and ID card of security guard. That panchanama is at Exh. 21. Arrest panchnama is at Exh. 100, muddemal receipt is at Exh. 101. He sent the victim and the accused for medical examination. He has identified mobile and ID card which is at article A and B. He has identified the accused and according to him further investigation

is done by API More.

20] The witness is duly cross examined where he has denied that copy of arrest panchanama and information of arrest was not given to the family members of the accused. Rest of the suggestions are considered, he has admitted one fact that ID card seized from the accused does not show that he is a police.

Considering the evidence of this witness, it is to be noted that there is nothing to disbelieve that the FIR came to be registered. It is important to note that there is one suggestion that there are certain omissions but the omissions are not pointed out to the witness. It is seen that the mobile of the accused is seized and that too, the accused is caught at Vashi station where he had called the victim.

21] The prosecution has examined **PW2 Madhukar Jadhav at Exh.15**. As per this witness on 16.02.2016 he was called at Vashi police station. He has further stated that at that time victim and her father were present. They prepared spot panchanama the place behind ICL School was also shown by the victim. Then they visited Pushpak lodge where they have prepared panchanama. The Manager of the said lodge told that the accused told that he is a police therefore they have not taken entry in register that the room was given to the accused. The witness has stated that at that time they have seen the CCTV footage where the victim and the accused were seen. They have also visited Room no.204 of that lodge, prepared panchanama which is at Exh.16. Police has taken CCTV footage. He

has stated that in the said CCTV footage accused and victim were seen. The witness is duly cross examined on the aspect that when he was called at police station and when the panchanama was finished. The witness stated that entire panchanama was typed in Pushpak lodged. Pushpak lodge is at a Market area and it is a crowded place. He denied that he was frequently called by police for panchanama. He do not remember the name of the person who was on the counter of that lodge. Considering his entire cross-examination it is to be noted that he has admitted that the portion marked A in the panchanama is not correct. However considering his entire cross-examination there is nothing to disbelieve that at the relevant time panchaanama was prepared. Thus,there is reason to believe the panhanama as stated by this witness.

22] **Mohan Gundaji Sonawane- PW3 at Exh.20.** As per this witness on 14.02.2016 accused was arrested. His personal search was taken. His name is Sagar Dhulap and with the personal search of the accused they found one mobile of Samsung and I.D.Card of a Security guard for Bruhan Mumbai. Those Articles were seized. Panchanama came to be prepared which is at Article 21. He has further stated that he has identified the accused. The witness is cross examined whereby he admitted that the date of the panchanama is over written as 2016. He admitted that panchanama was prepared at police station. He admitted that police I Card was not seized from the accused. He denied that he was not present at that time. Considering his evidence from his cross examination there is nothing coming on

record to disbelieve that mobile is seized from the accused. Moreover, there is nothing to disbelieve that one I Card was also seized from the accused. That panchanama is at Exh.21. Here, on going through the said seizure panchanama it is important to note that the mobile which is seized from the accused is bearing mobile number 8652279486 and the I Card which is seized is of the Security guard of Bruhan Mumbai.

23] In regards to this seizure panchanama it is important to see the evidence of **PW 12 Vijay Eknath Shinde at Exh.93**. It is coming from his evidence that at the relevant time he was working as a Nodal officer with Idea cellular and on 05.03.2016 he received a letter from police which is at Exh.77 whereby the police has enquired and asked the information regarding to the said mobile number more particularly CDR and SDR for the dated 13.02.2016 and 14.02.2016. He has further stated that the said mobile sim card was in name of the accused and he has provided the information which is at Exh.94 which is customer application form, I.D. proof which is at Exh.95, 96. He has also stated that he has issued the details of data which is at Exh.97 and his certificate u/s.65B of the Evidence Act is at Exh.98. In his cross-examination he admitted that he is not Engineer. The range of the Tower is around 1km. There might be overlapped of tower. He admitted that the data is editable. He admitted that he has not given hash value. He stated that he has not verified where the mobile was working or not. He has not seen the original documents. Considering his entire evidence it is seen

that he was working with Idea Cellular and the mobile which has been seized from the accused as per the above panchanama, the sim card was in the name of the accused and this witness has produced CDR and SDR of the said mobile. So all these facts cannot be discarded. Moreover nothing has been coming from his cross-examination to discard and disbelieve his evidence.

24] The prosecution has examined **Sunish Subhashchandra Tiwari- PW14** at Exh.103. Whereby it is contended that in the year 2016 in Aircel Mobile he was working as Nodal Officer. On 05.03.2016 they received a letter that to provide CDR and SDR of mobile number 8xxxxxxx1 (**number not typed here**) for the period 13.02.2016 and 14.02.2016. He has particularly stated that the said mobile number stood in the name of the victim. Accordingly, he has produced customer application form of the victim which is at Exh.,104 as well as Tower location, CDR. He has also produced certificate u/s.65-B of the Evidence Act. The witness is duly cross examined whereby he admitted that the frippery of Tower is between 800mtr to 1 and half km and range can overlap between two towers. He admitted that in his certificate u/s.65-B he has not produced hash value. He stated that at the relevant time that mobile number was active. Considering this aspect there is nothing to disbelieve than the present witness has provided details of the mobile and CDR and SDR of this mobile number.

25] In view of evidence of PW13 & PW14 it is important to

note that both these witnesses have produced the customer form of the above two mobile numbers, one is of the accused and another of the victim and it is significant to note that they are produced the call details between both the mobile numbers. At Exh.105 it is particularly seen that this mobile is of the victim and there on 13.02.2016 at time 20.18.47 there are frequent calls from the mobile of the accused. It is also seen that there are 9 calls from the mobile of the accused on 14.02.2016 from 11.17.36 similarly the call details from the mobile numbers of the accused at Exh.97 it is reflected that there is a call communication on 13.02.2016 and 14.02.2016 and this fact plays a significant role and there is a strong evidence that the accused has called the victim at the relevant time.

26] The above evidence of the call details between the accused and victim is well corroborated to the evidence of PW1 victim whereby she has particularly stated that the accused has called her on 13 & 14. 02.2016 frequently. Here, it is further important to note that when this incriminating evidence is put to the accused while recording his statement u/s.313 of Cr.PC. He has just denied the same. Once the fact is establish that there are the phone calls from the accused to the victim. There is no cross-examination on this aspect neither the accused has given any reasonable explanation for what reasons he has called the victim.

27] Another important aspect which requires to be discussed here is that according to the accused he was having love affair with

the victim then in order to substantiate his contention it was quite possible on his part to show that in that three years of their relationship he had any occasion to call the victim on mobile or victim has called him because the fact which is coming on record that the accused and the victim both are having mobile phones with them. So in such contingencies I am of view that the contentions of the accused regarding the love relationship with the victim is absolutely baseless. Moreover, there is nothing coming on record to support his contention.

28] It is to be noted that when it is argued on the side of the accused that how the accused would follow the victim from the crowded place of Kurla by traveling by train till Sector 15 Vashi, in this regard it is to be noted that the accused at the one time taking the defence that he knows the victim and he got annoyed on seeing her with another boy so he got angry hence victim took him to lodge for discussion, so it is the suggestion of the accused then it is quite possible on his part to follow the victim which negativeness said question.

29] Now turning to the **PW4 Shatrughna Jadhav** a Panch witness at Exh.26. It is coming from his evidence that on 16.02.2016 police called him for seizure of clothes of the victim. Accordingly, her clothes were seized and panchanama is prepared which is at Exh.27. He has also identified those clothes which is at Article 1 to 3. The witness is duly cross examined. However, an interesting question was

put that whether he can tell size of the clothes which he has denied. Nothing has been come from his cross-examination to disbelieve his evidence.

30] **Umesh Krishna Pujari is examined who is PW5 at Ex.28.**

It is coming from is evidence that in the year 2016 he was serving as a Manager in Sai Sakshi Lodge and Boarding. Previously that lodge was known as Pushpak lodge. On 16.02.2016 police visited to their lodge with one panch and one lady. They have shown photograph of one person. He has identified that person and told that he visited to their hotel on 13.02.2016. He further stated that the said person came from the back door along with one lady at about 7.00 p.m and that person told their waiter that he is a police person and asked for one room for half and hour. Waiter informed him the person has shown identity card from the long distance as he was from police department. He has given room to him. Name of waiter is Uttam Kumar. He was present on counter that lady had covered face with scarf and was wearing top and red pant and black color jacket. The person told his name as Sagar. He has identified the accused. Room no.204 was given to him. The said person was around 30 to 45 minutes. He further stated that as the said person was from police department they have not taken entry in registered. He further stated that he has given CCTV footage to police through technician Rao dated 13.02.2016 police took it in pen drive.

31] In his cross-examination, he admitted that they are not

having license to give room for one hour or two hour. He admitted that many people used to visit their lodge. So he unable to give specification regarding cloth and face of every person. He further admitted that as that lady's face was covered with scarf he was unable to see her. He denied that he has not seen the identity card of the accused. He further stated that in case there is a police customer they are not taking entry in register. He denied that CCTV was not properly working. He admitted that the said girl visited for first time to their lodge. He denied that they are running illegal business.

32] During the course of argument the learned counsel for the accused argued that his witness is stating that for the police they are not taking entry in the register so he is doing illegal act and hence his evidence is not trustworthy. Here it is important to note that as per this witness he has particularly stated that in case there is a police customer they are not taking entry. However, this aspect will not be the sole factor to discard his evidence. There is nothing brought from his cross-examination that he is deposing falsely and that to why he is deposing against the accused. On the contrary the evidence of the PW1 Prosecutrix is corroborated by the evidence of this witness. According to the PW1 complainant the accused introduced himself as a police and this witness has also stated that the accused told that he is a police so there might be possibility that believing the accused to be a police. This witness might have permitted him to use the lodge room for particular small span of time. Thus, the evidence of this witness cannot be totally discarded.

33] **Shijay Rampher Gaud – PW6 at Exh. 29** has stated that on 17/02/2016, he was called at the police station where the accused was present and he was told that clothes of the accused are to be seized. Accordingly, full pant and full shirt was seized and panchnama was prepared which is at exh. 30. He has identified the accused and the clothes. In his cross-examination, he has denied that he is a regular panch. He also admitted that the clothes were kept on the table. He admitted that he is unable to state who brought these clothes. He denied that he is not aware from where the clothes were brought. Rest of the suggestions are denied by this witness. Considering the evidence of this witness, it is to be noted that there is nothing coming on record that somebody else clothes were seized and more particularly, as per this witness, the clothes were seized from the accused. Thus, there is no reason to disbelieve the evidence of this witness.

34] **Mr. S (name not disclosed) – PW7 – who is the father of the victim at Exh. 34** has categorically stated that on 13/02/2016 at about 8.00 p.m., his daughter victim came with one person. She introduced that person as a teacher in Modern College. Thereafter, she went out of the house with that person. Then she came and demanded Rs. 30,000/-. When she was asked the reason for the same, she stated there is a problem in Standard 12th for which she needed the amount. Thereafter, she went away and later, she demanded gold jewellery which he refused. Inquiry was made with

her asking whether she knew the person. She told the name of the accused. Thereafter, when he made further enquiry, she told that the said person took her at one lodge at Turbhe and committed rape.

Next day, at about 4.00 p.m. to 5.00 p.m., when the victim and her friend Asmit were at Bandra for wandering, as she was having pain in the stomach, they stayed at one lodge at Kurla and when they reached Vashi railway station and she was coming to her house at sector 15 at that time, one person met her who introduced himself as police and stated her that he knew about her relation with Asmit and threatened her that he would disclose it to her parents and on that count, he demanded Rs. 30,000/- from her. As she was not having money, he took her to one lodge and committed forceful sexual intercourse with her.

35] He further stated that, that person called his daughter from time to time and kept demanding money or otherwise that person put the option that she should come to the lodge. His daughter was under the fear and then, after taking her into confidence, she narrated the incident and thereafter, they moved to the police where FIR was filed.

36] The witness, in his cross-examination was put the questions that at what time, the victim left the house on 13/02/2016 to which he stated that it was about 8.00 to 8.30 a.m. He stated that he does not know Asmit and his friendship with his daughter. He admitted that when his daughter came with the person, he enquired

regarding the details of that person and at that time, she told name of that person. He admitted that the daughter did not tell that the said person is staff of Modern College. It is important to note that there are certain variations in the evidence of PW1 victim and the evidence of this witness about introduction of the accused. However, it is to be noted that as seen earlier there is nothing to disbelieve the evidence of the victim. Considering the mental state of mind of the victim, after the relevant time, there might be some variations. However, that does not mean that the entire evidence has to be discarded. The witness is further cross examined whereby he has stated that on the same day, she has narrated the incident to him. He did not personally meet that person who demanded Rs. 30,000/- from his daughter. He further admitted that when his daughter demanded gold necklace, he did not go personally to meet that person. It is further seen that this witness has made improvement regarding the gold necklace. He has further stated that as they were in depression, they immediately did not go to the police station. He admitted that on 13/02/2016, the victim never told that on that day, she visited the lodge with Asmit. He is not aware whether his daughter is having love affair with the accused and Asmit. He admitted that when his daughter demanded gold necklace, he had an opportunity to go down and to enquire with the accused but he did not do so. The victim did not make complaint regarding pain in her stomach. He denied that she hid relations with the accused and Asmit and made a false case. He cannot state whether his daughter was having relation with the accused prior to Asmit. He denied that

the accused saw the victim coming with Asmit from the lodge and therefore, he obstructed and enquired with her and hence, she made a false case.

37] Considering the evidence of this witness, it is submitted on the side of the accused that this witness has stated that the victim has narrated the incident on 13.02.2016. however, as per the victim PW1 on the next day, he narrated the incident to her father. So it is submitted that the evidence of this witness destroys the case of the prosecution thus resulting into reasonable doubt. On the other side, the learned APP submitted that in this case, the evidence of the prosecutrix is considered and it is well corroborated by the other evidence. However, only on the above aspect, the evidence could not be discarded.

38] In view of the submissions of both the sides, it is to be noted that the entire evidence of this witness is to be considered whereby it is coming on record that the accused visited their house. The victim demanded Rs. 30,000/- and gold ornament to her father which cannot be disbelieved. It is true that the witness, even though, had the opportunity to meet the accused and to make enquiry with him for what reasons, he is requiring the amount or ornament. So his negligence is considered, it will not destroy the case of the prosecution and to disbelieve the evidence of the victim. Again it is important to note that from the above evidence, the suggestion particularly speaks that the accused followed the victim from Kurla to

Vashi and this fact is now established again and again. However, the question comes into mind that even though the submission of the accused is considered that he was having love affair with the victim then for what reasons he demanded money/gold ornament. It is already seen that there are phone calls of the accused only on 13.02.2016 and 14.02.2016 and again backdrop to the above discussion, it is important to note that if the accused is having love affair with the victim for 3 years, it was quite possible to demonstrate at least a single call or chat for that period. However, there is nothing brought on record to that extent on the side of the accused to support his contention. On the other side, the prosecution has successfully brought on record that for the particular period the accused called the victim. Thus, the entire evidence of this witness cannot be discarded in order to discard and disbelieve the evidence of the prosecution.

39] It is coming from the evidence of **Asmit Kondalkar – PW8 at Exh. 53** that PW1 victim is his friend. On 13.02.2016, when they were wandering at Bandra, the victim had pain in the stomach. So they took rest at lodge at Kurla and thereafter, they proceeded to Vashi. On reaching at Vashi station, he went to his house by rickshaw and the victim went to her house walking. At about 6.00 p.m, she called him and told that the police had caught her and demanded Rs. 30,000/-. As he was in some work, he was under the impression that the victim was just kidding with him. Thereafter, he was called by the police and later, he came to know about the incident and that too

that the said person who had committed that act was not a police.

40] The witness is cross-examined regarding his relationship with the victim. He has denied that for number of times he had visited Prakash lodge with the victim. He denied that he was having physical relations with the victim. He stated that the victim did not tell him that she had love affair with Sagar. He has denied the rest of the suggestions. Considering the evidence of this witness, there is nothing to disbelieve that on the day of the incident he and the victim had visited Bandra and later, came to Vashi.

41] **PW9 – Dr. Sumedha at exh. 16** who is a gynecologist examined the victim on 14/02/2016 on receiving MLC from the police which is at exh. 62. She examined the victim girl, age 22 years with her consent. Her samples for FSL were obtained. Her sexual character was matured, hymen was not intact, edges were normal. She was having bleeding as she was having periods. There was no tear or no edema and edges were normal. The victim was examined after 18 hours of the incident. She issued certificate which is at exh. 63. She opined that there was a sexual assault. She stated that the sexual assault may be there or not and she answered after going through CA reports which is at exh. 65 and 66. In her cross-examination, she admitted that one cannot predict whether a particular lady is having sexual intercourse with number of persons and number of times. She denied that in the present case, she had issued false report at the instance of police.

42] The learned counsel for the accused submitted that by the evidence of this witness, this witness is stating that there may or may not be sexual assault. So he submitted that in such contingencies, the evidence of PW1 victim is to be discarded. On the other side, the learned APP submitted that there is nothing to disbelieve the evidence of PW1 victim and more particularly, from the cross-examination of the victim, it is brought on the record that the accused and the victim went to the lodge as the accused found the victim with another person. So he submitted that in such contingencies, it is admitted fact that the accused and the victim visited lodge. In this aspect, it is further important to note that the accused is coming with one of the defence that he is having love affair with the victim which she has denied. The learned APP has pointed out that in such contingencies, the evidence of the victim cannot be disbelieved. Earlier, it is discussed regarding the evidence of the victim and it is well corroborated regarding the phone calls between the accused and the victim. Considering the evidence in all, the evidence of the victim cannot be disbelieved. It is important to note that in such type of cases, if the evidence of the victim is reliable, no further corroboration is required. In this case, the evidence of the victim is reliable and there is nothing to disbelieve her evidence. So in such contingencies, the medical evidence cannot be discarded. Moreover, it is to be noted that the victim is examined after 18 hours of the incident and that too, when she was having bleeding as she was having her periods.

43] **PW10 – Dr. Vijayalaxmi at Exh. 68** – from her entire evidence, it is coming on record that she has examined the accused and found that there is nothing to suggest that he is impotent and his certificate is at exh. 70.

44] **PW11 – Vasudev More – the investigation officer – at Exh. 73** who is the police inspector who investigated this crime has stated that in his investigation, he has recorded supplementary statement of the victim. He has obtained CDR and SDR of the phone calls of the accused and the victim by a letter at Exh. 77 and 78. He has seized the clothes of the victim, prepared seizure panchnama which is at Exh. 27, recorded statements of witnesses, made enquiry with Prakash lodge, obtained copy of the register which is at exh. 80. He further stated that the spot of the incident was shown by the victim. Accordingly, he visited Sakshi lodge now named Pushpak lodge, saw CCTV recording whereby the victim has identified the accused. He has obtained the CCTV footage in pen drive and prepared panchnama which is at Exh. 17 and the spot panchnama in the said room was done which is at Exh. 16. He has recorded statement of technician regarding seizure of CCTV footage and obtained certificate u/sec 65 B of the Evidence Act. Statement of victim u/sec 164 of Cr.PC is recorded. On 17.02.2016, he seized the clothes of the accused who was in custody. He has further stated that accordingly, panchnama was prepared which is at Exh. 30. Samples were forwarded to Kalina laboratory for examination. That letter is

at Exh. 84 and it is transpired in his investigation that the accused has committed offence and hence, he submitted the chargesheet.

45] In his cross-examination, he has stated that near the school where the victim was there, there were no CCTV cameras. The witness was asked whether he has made enquiry with the rickshaw driver to which he has stated that he took the search but the said rickshaw driver could not be found. He admitted that he has not obtained license of the lodge and the license is required for the lodge. He has not recorded statement of manager of Prakash lodge. However, it is important to note that not recording statement of that manager is not fatal to the prosecution. He has questioned that he has not obtained copy of register from Sai Prasad lodge to which he has replied that the accused told at the relevant time that he is a police and the manager told that hence, they did not take entry in register and for that reason, they did not take copy of the register. So the reasoning given by the witness is well supported by the rest of the evidence. He has denied that there is a manipulation in CCTV.

46] The witness was shown the CCTV footage where he has particularly stated that on 13.02.2016 at 7.14 p.m., the victim and the accused were seen to be going out from the lodge which is at Exh. 91. In his cross-examination, he admitted that the entry of the accused from the main door is not seen. He admitted that the hash value of the pen drive is not mentioned.

47] Considering the evidence of this witness, I am of the view that there is nothing to disbelieve that he has carried out the investigation. The CCTV footage is considered, there is an evidence of manager of lodge which cannot be discarded and moreover, the evidence of the victim cannot be discarded.

48] Taking the stock of the entire evidence, it is coming on record that the accused who was working as a security guard. But by personating by saying that he is a police using his security guard ID card, he threatened the victim by following her from Kurla to Vashi. He threatened the victim that he will inform her parents that the victim visited her friend Asmit at a lodge at Kurla. Otherwise, the victim should pay him Rs. 30,000/-. The victim was unable to pay that amount and by threatening her, on 13.02.2016, he committed forceful sexual intercourse with her without her consent. Moreover, he was knowing that he was not a policeman and taking the benefit of the situation, he compelled the victim by showing his ID Card which is not a police ID card to have sex with him. Moreover, on 13.02.2016, he demanded Rs. 30,000/- to the victim intentionally put her in fear of implicating her in criminal case and to disclose her relation with her friend Asmit to her parents, dishonestly induced her to give him Rs. 30,000/- and had sexual intercourse with her and also, next day, he demanded the said amount and thus, he extorted the victim. Thus, considering the entire evidence and more particularly, the evidence of the prosecutrix/PW1 victim, there is nothing to disbelieve her evidence and prosecution has successfully

proved that the accused has committed rape on the victim by personation and by extortion. Thus, the charge leveled against the accused is proved beyond reasonable doubt. Thus, I answer points no. 1 to 3 as proved. Thus, I hereby take a pause to hear the accused on the quantum of sentence.

Date :15.12.2025
Belapur

(P .A. Sane)
Addnl. Sessions Judge, Belapur
Navi Mumbai

49] I have heard the accused and his learned counsel. It is submitted that the accused is in jail since the year 2016. He was a boy of 27 years old on the day of the offence. His family members are depending upon him. It is also submitted that lenient view be taken while imposing sentence.

50] Learned APP Mr. Yogendra Patil submitted that the nature of offence is serious and maximum sentence be passed.

51] Considering the submissions as regarding to the principles regarding imposition of sentence in the cases having social impact of crime has been led down by the Honourable Apex Court in the *State of Madhya Pradesh v/s Pappu @ Ajay in the Criminal appeal arising out of SLP (Criminal) 1166 of 2006* wherein it is observed that,

"13. Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime,

e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral turpitude or moral delinquency which have great impact on social order, and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meager sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result-wise counter productive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.

14. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal". If for extremely heinous crime of murder perpetrated in a very brutal manner without any provocation, most deterrent punishment is not given, the case of deterrent punishment will lose its relevance.

52] In view of the guiding principles, here considering the submissions of the accused, his age at the time of offence, nature of offence, punishment provided at the relevant time when the offence was committed in the year 2016, he is behind the bars since the year 2016 and considering the submissions of the learned APP, according

to me, following punishment would meet the ends of justice. Hence, the order:

ORDER

- 1) The accused Sagar Baburao Dhulap is hereby convicted for the offence punishable u/sec 376 of IPC in view of provision 235(2) of Criminal Procedure Code and he is sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.500 (Five Hundred Only) and in default, to suffer rigorous imprisonment for a period of one month.
- 2) He is hereby convicted for the commission of the offence punishable u/sec 170 of IPC in view of provision 235(2) of Criminal Procedure Code and he is sentenced to suffer rigorous imprisonment for 2 years and to pay fine of Rs. 500 (Five Hundred Only) and in default, to suffer rigorous imprisonment for a period of one month.
- 3) He is hereby convicted for the commission of the offence punishable u/sec 384 of IPC in view of provision 235(2) of Criminal Procedure Code and he is sentenced to suffer rigorous imprisonment for 03 years and to pay fine of Rs.500 (Five Hundred Only) and in default, to suffer rigorous imprisonment for a period of one month.
- 4) All the sentences shall run concurrently.
- 5) On depositing of fine amount, Rs.1000/- be paid to victim PW1 towards compensation and remaining amount of Rs.500/- shall be credited to the government after the appeal period is over.

But this amount will not be an adequate compensation amount

considering seriousness of offence, therefore, the copy of judgment be sent to District Legal Services Authority, Thane (DLSA) for being determined compensation under the victim compensation scheme provided under section 357-A (1) of CrPC for being paid to the victim, if law permits to DLSA.

6) The accused is in custody/jail since 14.02.2016 till today. Therefore, he is entitled to get benefit of set-off u/sec 428 of CrPC regarding such period.

7) Seized clothes and mobile of the accused and victim being worthless be destroyed after the appeal period is over.

8) The accused is uprised regarding his right to appeal in the Honourable Appellate Court.

9) Copy of this judgment be sent to District Magistrate in view of section 365 of CrPC.

10) Copy of this judgment be given to the accused free of cost.

(The judgment is declared and pronounced in open court).

Sd/-

(P .A. Sane)

Date :15.12.2025
Belapur

Addnl. Sessions Judge, Belapur
Navi Mumbai.