

Exh.No. 48.

Received on : 17.04.2018
Registered on: 17.04.2018
Decided on : 11.10.2022
Duration : Y : M : D.
04 : 05 : 24

**IN THE COURT OF FAST TRACK SPECIAL COURT,
PUNE AT PUNE**

(Presided over by Shri K. K. Jahagirdar)

Spl. Case (POCSO) No. 161/2018

The State of Maharashtra,
Through Kondhava Police Station,
Pune. } COMPLAINANT

Vs.

Deepak Jaysingh Kachi
Age 24 years, Occupation : Driver,
Resident of: Markal, Alandi,
Pune. } ACCUSED

Charge :- Offence punishable under Sections 363, 366-A, 376 (2) (j), (n) of the Indian Penal Code and offence punishable under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.

Advocates :-

Smt. A. S. Brahme, & Smt. S. C. Kale, Learned Spl. P.P. for State.
Shri Onkar Sohani, Learned Advocate for accused.

J U D G M E N T

(Delivered on 11th October, 2022)

1] Accused Deepak Jaysingh Kachi is facing trial with allegation of committing offence punishable under Sections 363, 366-A, 376 (2) (j), (n) of the Indian Penal Code(hereinafter

referred to as the IPC) and offence punishable under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the POCSO Act).

2] It is the case of prosecution that Smt. Mangal Ramesh Kamble has lodged complaint before Kondhva police station on 27.03.2017 and contended that victim is her daughter. On 26.03.2017 complainant had been to attend her work and when she came back home at about 8:00 pm, her daughter Ashwini told her that victim left the house at about 1:00 pm informing that she is going to her friend but never returned. Thereafter they all took search for victim, but victim was not found, therefore, she lodged complaint against unknown person for enticing victim.

On the basis of complaint, crime was registered vide C.R.No. 98/2017 against accused for offence punishable under Section 363 of the IPC. Police took search of victim and on 26.01.2018 they come to know that victim and accused were residing at Sasane Nagar, Hadapsar. Police caught both of them and brought to police station where victim has given statement and told that accused enticed her on 26.03.2017, then he kept victim with him for 8 days, he did not allow her to go outside the house, he used to abuse her and beat her, he has committed sexual intercourse with her repeatedly during that period. Thereafter investigating officer has inserted Section 376 of the IPC and Sections 4, 6, 8, 12 of the POCSO Act. Investigating

Officer investigated the matter and filed charge-sheet against accused in the Court.

3] The charge is framed against accused as per Exh. 19 for the offence punishable under Sections 363, 366-A, 376 (2) (j), (n) of the Indian Penal Code and offence punishable under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012. The contents of charge are read over and explained to accused in vernacular to which he pleaded not guilty and claimed to be tried.

4] The prosecution has examined in all 3 witnesses. Thereafter statement of accused under Section 313 of Cr.P.C. is recorded at Exh. 47. The defence of accused is that of total denial and false implication. Heard Learned Advocates for both the sides.

5] After hearing submissions of both the parties, following points arise for my determination and I have recorded my findings against each of them for the reasons given below :-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings.</u>
1	Does prosecution prove that on 26.03.2017 at about 13:00 hours at the house of informant situated at Patil Vasti, Yeolewadi, Pune and thereafter at Sasanenagar, Lane No.13, Hadapsar, Pune accused	

	kidnapped victim aged 17 years from the custody of her mother without her consent ?	Negative.
2	Does prosecution further prove that on the aforesaid date, time and place accused induced minor girl under the age of eighteen years to go from Patil Vasti, Yeolewadi, Pune to Sasanenagar, Lane No.13, Hadapsar, Pune or to do an act with intent that such girl may be or knowing that it is likely that she will be forced to seduced to illicit intercourse ?	Negative.
3	Does prosecution further prove that on the aforesaid date, time and place accused repeatedly committed rape on the victim girl (aged about 16 years) incapable of giving consent ?	Negative.
4	Does prosecution further prove that on the aforesaid date, time and place accused committed penetrative sexual assault on the victim girl (age about 16 years) ?	Negative.
5	Does prosecution further prove that on the aforesaid date, time and place accused repeatedly committed aggravated penetrative sexual assault on the victim (age about 16 years) ?	Negative.
6	Does prosecution further prove that on the aforesaid date, time and place accused committed sexual	

	assault on the victim (age about 16 years) ?	Negative.
7	Does prosecution further prove that on the aforesaid date, time and place accused committed sexual harassment on the victim (age about 16 years) ?	Negative.
8	What order ?	Accused acquitted.

Reasons

6] **As to all points:-** In order to prove the case, prosecution has examined in all 3 witnesses out of which PW-1 is complainant Mangal Ramesh Kamble at Exh. 27, PW-2 is victim at Exh. 30 and lastly PW-3 API Kiran Bharat Pavse at Exh.33 and closed the evidence.

7] PW-1 complainant Mangal Kamble has stated that in the year 2017 victim was taking education. Complainant used to go to her work at 9:00 am and back home at 8:00 pm. On 26.03.2017 she had been to her work, at that time victim was in the house. When complainant came back home at about 9:00 pm victim was not found in the house. Victim do not want to take education, therefore, complainant shouted on her and hence she left the house. Even after search, victim was not found, therefore, she lodged complaint (Exh.28). Complainant has stated that when she lodged complaint, at that time accused was residing at his native place. She has denied that accused has stated victim that he wants wife like victim and also misbehaving with her. The

complainant has also denied the suggestion that victim left the house, at the same time accused was also disappeared from the house. When complainant denied suggestion that accused enticed victim. The complainant has admitted that when police called her to police station, at that time victim and accused were present. But she has stated that victim has not told anything to her. She has also denied the suggestion that accused has committed sexual intercourse with victim and kept her at Sasanenagar, Hadapsar the complainant turned hostile, therefore, she was cross-examined by the learned A.P.P., but nothing is come on record.

During cross-examination of accused complainant has admitted that on 28.01.2018 accused was brought by police, but she do not know for which offence he was arrested. The evidence of complainant is not supporting the case of prosecution. Though she is hearsay witness, she has not denied that victim told her about entire incident took place with her. The complaint is filed on record at Exh.28.

8] PW-2 victim has stated that her date of birth is 02.05.2001. In the year 2017 she was taking education in Babanrao Khandoji Kamathe Vidyalay in 10th standard. She also admitted her bonafide certificate which is filed on record at Exh.31. She has flatly denied that incident took place with her. She has not supported the case of prosecution, therefore, she was declared hostile and learned A.P.P. has cross-examined victim. She has not stated anything in favour of prosecution. She has

stated that she has given statement before Magistrate under Section 164 of Cr.P.C. as per the instructions of police. She has further stated that she has no complaint against accused and she has not filed complaint against accused. She has not made complaint against accused and lastly she has stated that no incident took place with her. The evidence of victim is not supporting the case of prosecution. She has flatly denied the incident. The victim has refused to undergo medical examination. The consent letter is filed on record at Exh.32. Victim has not consented for medical examination, therefore, her medical examination was not done. The victim has stated before magistrate that accused enticed her and committed sexual intercourse with her repeatedly against her wish and forcibly, but she failed to support the case of prosecution.

9] PW-3 has stated about investigation carried by him. The investigating officer is not an eye witness of this case. He has hearsay knowledge about the case, therefore, his evidence is not sufficient to prove the case against accused beyond shadow of doubt.

10] There is absolutely no evidence against accused to prove the charge levelled against him. The prosecution has failed to prove the case against accused beyond shadow of doubt. therefore, accused is entitled to acquittal. In the result, I record my findings on all points in negative and pass following order.

ORDER

- i] Accused Deepak Jaysingh Kachi is hereby acquitted of the offence punishable under Sections 363, 366-A, 376 (2) (j), (n) of the Indian Penal Code and offence punishable under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 vide Section 235(1) of Cr.P.C..
- ii] Bail bond of accused stands cancelled.
- iii] Accused to furnish personal bond and surety bond of Rs.15,000/- (Rupees Fifteen Thousand) in view of compliance under Section 437-A of the Cr.P.C. with current address proof and undertaking that he will appear before appellate Court in case an appeal is preferred.
- iv] The seized muddemal property, being worthless, be destroyed after appeal period is over.

Dictated and pronounced in open Court.

Date:-11.10.2022.

(K. K. Jahagirdar)
Extra Jt. Addl. Sessions Judge,
Pune.

I affirm that the contents of this P.D.F. file Judgment are same, word to word, as per the original Judgment.

Name of the Stenographer :K.D.Pawar.

Name of the Court : Shri K.K. Jahagirdar.
: Fast Track Special Court,
: Pune.

Date of Judgment : 11.10.2022.

Judgment signed by the P.O. : 11.10.2022.

Judgment uploaded on : 12.10.2022.