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IN THE COURT OF THE SPECIAL COURT, PUNE.
AT : PUNE.

[Presided over by Shri. S. J. Kale Special Judge, and
District Judge, 01, Pune under The Protection of Children from
Sexual Offences Act, 2012]

Exh. No.
Special (Child) Sessions Case No.132 OF 2014.

The State of Maharashtra,
(Through PSO Khadak police station) **Complainant.**

Vs.

Manoj Jitendra Adsul,
Age 22 years, Occupation-Service,
R/o. PMC Colony No.6/57, Ganj Peth, Pune. **Accused.**

Charge for the offence punishable under
S. 363, 366-A, 376 of IPC and Sec. 3 r/w 4 of
The Protection of Children from Sexual
Offences Act, 2012.

Appearances :

Smt. H. K. Bari, Special. Addl. Public Prosecutor for the State.
Shri. Mohanrao Dongare, Advocate for the accused.

J U D G M E N T
(Delivered on 06-11-2015)

The accused is indicted of the offence punishable under
Section 363, 366-A, 376 of the Indian Penal Code, and under Section
3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012.

2] Facts in brief are as under :-

The victim minor girl (name withheld), is the daughter of Sandhya Kaluram Bhonde. She is working as Sweeper. Her husband died in the year 2004 and residing at PMC Colony No.6, House No.4, Ganj Peth, Pune. According to her on 21.4.2014 in between 11.30 p.m. to 6 a.m. of 22.4.2014, her daughter was missing and she was having suspicion on the accused, who was residing in the same locality where she resides. Therefore, she had filed complaint against the accused. During the course of investigation, police found accused and his daughter at Pandharpur in Kabir Bhakt Niwas. They brought them to Khadak police station and arrested accused. The victim girl was interrogated and her statement was recorded. In the said statement, she disclosed that accused had committed sexual intercourse with her against her wish and, therefore, police registered offence under section 376 of the Indian Penal Code against the accused and sent victim minor girl to Sassoon Hospital, Pune for medical examination. On her report, the offence was registered against the accused at Khadak police station.

3] On the basis of said report, offence bearing C. R. No. 92/2014 came to be registered. PSI S. P. Deokar took over the investigation and carried out investigation. During the course of investigation, he recorded the statements of the concerned witnesses as per their say and effected spot panchanama in presence of the panchas. He sent victim minor girl and the accused for medical examination to Sassoon Hospital, Pune and included the medical certificate in the case papers. He seized clothes of the accused and sent them for chemical analysis and after completing necessary investigation, submitted charge sheet against the accused.

4] Then Presiding Officer (Mrs. Prachi P. Kulkarni), framed

charge (Exh.2) against the accused, under Section 363, 366-A, 376 of the Indian Penal Code, and under Section 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012. It was read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried.

5] In order to bring home the guilt of accused, the prosecution has examined in all two important witnesses, viz. victim minor girl (PW-1) and Sandhya Kaluram Bhonde, the mother of victim girl (PW-2). I have recorded the statement of the accused under section 313 of the Criminal Procedure Code. According to the accused, he is falsely implicated.

6] Perused the evidence on record. Heard learned Spl. APP for the State and the defence counsel.

7] The following points arise for my determination and I record my findings against them for the reasons given below :-

	<u>POINTS</u>	<u>FINDINGS</u>
1]	Whether prosecution proved that the accused kidnapped victim minor girl and took her at various places without the consent of her mother ?	 No.
2]	Whether prosecution has further proved that the accused, during the course of same transaction, induced minor victim girl on the promise of marriage and took her to Pandharpur, having forced her to have sexual intercourse with him ?	 No.
3]	Whether prosecution has further proved that the accused, during the course of same transaction, committed rape on victim minor girl ?	 No.

4]	Whether the prosecution has further proved that the accused, during the course of same transaction, committed penetrative sexual assault on victim minor girl ?	 No.
5]	Whether any other offence is made out against the accused ?	 No.
6]	What order ?	 The accused is acquitted.

REASONS

8] **POINT NOS. 1 TO 5 :-** The victim girl has stated in her examination-in-chief that she does not know her birth date. She does not know the accused. According to her, she did not go anywhere along with the accused on 24.4.2014 at Solapur and Pandharpur and accused had not kept any physical relations with her. In short, she has totally denied the prosecution case in material particulars. Therefore, she was declared hostile and subjected to cross-examination, but nothing useful has come in her evidence. According to her, police never interrogated her at any time and recorded her statement and she never accompanied with the accused at Pandharur and police brought her back to Pune from Pandharpur. Thus, the evidence of this star witness for the prosecution, is of no consequence, so far as involvement of the accused is concerned.

9] PW-2 Sandhya Bhonde, mother of victim girl has stated in her examination-in-chief that victim girl is her daughter. On 22.4.2014 she did not find her daughter in the house. So, she took her search but she could not be traced out and hence she lodged missing report about her daughter with the police vide Exh.6. According to her, her daughter was found at Pandharpur four days

thereafter and she was brought to Khadak police station by police and she was summoned in the police station. There her daughter and the accused were present. On inquiry with her daughter, she disclosed her that accused took her to Pandharpur and developed physical relations with her. So, she lodged the report against the accused as per the information provided by her daughter and then her daughter was referred to Sassoon Hospital, Pune for medical examination. This witness was cross examined by the learned defence counsel, but she has not stated anything incriminating against the accused. So, her evidence is of no use to connect the accused in any way for the offences charged against him.

10] From the above evidence, it can be inferred that the victim minor girl had love affair with the accused and the said relationship was not acceptable to her mother and, therefore, she had lodged complaint against the accused. The victim minor girl has not uttered a single word against the accused. Even though her mother has stated that she lodged complaint against the accused on the information supplied by her daughter, her evidence is not at all corroborated by the victim girl, as she was declared hostile by the prosecution. In view of this background, the learned Special APP for the State has not examined any other witnesses and closed the evidence by Purshis at Exh.12. It seems that the parties have compounded the matter amicably out of the court, keeping in mind the welfare of the victim minor girl. In such background, it is certainly not possible for the Special APP for the State to get any help.

11] Thus, on considering the aforesaid evidence, I am of the view that prosecution has not been able to establish the guilt of the accused and as such, I have no hesitation to award clean chit to him and, therefore, I answer all these points in the negative and proceed

to pass the following order.

ORDER

1] The accused Manoj Jitendra Adsul is hereby acquitted under the provisions of Sec.235(1) of the Criminal Procedure Code, for the offence punishable under Section 363, 366-A, 376 of the Indian Penal Code and under Section 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012,

2] His bail bonds stand cancelled.

3] The Muddemal property- viz. one bed sheet, clothes of accused and clothes of victim girl, vaginal swabs of victim girl and accused, being worthless, be destroyed, after the appeal period is over.

Pune,
Dated/- 06-11-2015.

(S. J. Kale)
Special Judge & District Judge,01,
Pune (Under The Protection of Children from
Sexual Offences Act, 2012)

I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment.

Name of Steno : Shri. V. V. Bannur, PA
Court Name : Shri. S. J. Kale, District Judge,01, Pune.
Judgment signed by P,O. on : 7-11-2015
Judgment uploaded on : 7-11-2015
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