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Registered on : 10/03/2022  
Decided on : 22/04/2025  
Duration : Y M D  
03 01 12

IN THE COURT OF ADDITIONAL SESSIONS JUDGE  
AT PUNE  
(Presided over by A. L. Tikle)

SPL. CASE No.-194/2022  
CNR NO.-MHPU010045672022  
Exh. No.-23.

**The State of Maharashtra**

Through the Police Station Officer,  
Police Station Bharti Vidyapeeth, Pune,  
District : Pune.

... Prosecution

**Versus**

**Kishor Ashok Koli,**

Age : 28 Years, Occu : Service,  
R/at : Anjali Niwas, Ground Floor,  
Jay Bhavani Chowk, Ambegaon Bk.  
Pune

Original Address :- At & Post- Bhamburde,  
Tal.-Palus, Dist.-Sangli.

... Accused

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Mr. P. N. Bombatkar, the learned P.P. for the prosecution.  
Mr. S. V. Bhosale, the learned counsel for the accused.  
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**JUDGMENT**  
(Delivered on 22<sup>nd</sup> April, 2025)

|                                                                                                                                                                  |                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| (Details of FIR/Crime and Police Station)<br>FIR No.21 of 2022 U/s.-354-D of IPC and Section-12 of POCSO Act, registered with Police Station Bharati Vidyapeeth. |                                                                |
| Prosecution                                                                                                                                                      | State of Maharashtra through Police Station Bharati Vidyapeeth |
| Complainant                                                                                                                                                      | The mother of the victim                                       |
| Represented by                                                                                                                                                   | Mr. P. N. Bombatkar, the Public Prosecutor (P.P.)              |
| Accused                                                                                                                                                          | Kishor Ashok Koli                                              |
| Represented By                                                                                                                                                   | Advocate Mr. S. V. Bhosale                                     |

**"Part B"**

|                                    |                 |
|------------------------------------|-----------------|
| Date of offence                    | 11/01/2022      |
| Date of First Information Report   | 12/01/2022      |
| Date of Charge-sheet               | 10/03/2022      |
| Date of framing of Charge          | 11/09/2023      |
| Date of commencement of evidence   | 27/12/2023      |
| Date on which Judgment is reserved | ---             |
| Date of Judgment                   | 22/04/2025      |
| Date of sentencing order, if any   | Not applicable. |

**Details of Accused :**

| Rank of the Accused | Name of Accused | Date of Arrest | Date of release on bail | Offence charged with | Whether acquitted or convicted | Sentence imposed | Period of detention under gone during the purpose of Section 428 Cr.PC. |
|---------------------|-----------------|----------------|-------------------------|----------------------|--------------------------------|------------------|-------------------------------------------------------------------------|
| 1.                  | Kishor          | 12/01/2022     | 25/01/2022              | U/s.354-D            | Acquitted                      | NA               | NA                                                                      |

|  |            |  |  |                                              |  |  |  |
|--|------------|--|--|----------------------------------------------|--|--|--|
|  | Ashok Koli |  |  | of IPC and<br>Section 12<br>of POCSO<br>Act. |  |  |  |
|--|------------|--|--|----------------------------------------------|--|--|--|

**"PART - C"****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES.**

| <b>Prosecution Witnesses</b> |                                                   |                        |
|------------------------------|---------------------------------------------------|------------------------|
| Rank of the Witness          | Name                                              | Nature of Evidence     |
| PW-1                         | The informant (The mother of the victim) (Exh.08) | About incident and age |
| PW-2                         | The victim (Exh.13)                               | About incident and age |
| PW-3                         | Sangita Kishor Yadav (Exh.17)                     | Investigating officer  |

| <b>Defence Witnesses, if any</b> |      |                    |
|----------------------------------|------|--------------------|
| Rank of the Witness              | Name | Nature of Evidence |
| NIL                              | NIL  | NIL                |

| <b>Court Witnesses, if any</b> |      |                    |
|--------------------------------|------|--------------------|
| Rank of the Witness            | Name | Nature of Evidence |
| NIL                            | NIL  | NIL                |

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

| <u>Sr. No.</u> | <u>Exhibit No.</u> | <u>Description</u> |
|----------------|--------------------|--------------------|
| 1.             | 09                 | FIR Dt.12.01.2022  |

|    |    |                                                          |
|----|----|----------------------------------------------------------|
| 2. | 10 | Printed First Information report                         |
| 3. | 11 | Birth certificate of victim                              |
| 4. | 12 | Statement of victim u/s.164 of Cr.P.C.                   |
| 5. | 14 | Spot panchanama (admitted by defence)                    |
| 6. | 15 | Seizure panchanama of mobile phone (admitted by defence) |

**B. Defence.**

| <u>Sr. No.</u> | <u>Exhibit No.</u> | <u>Description</u> |
|----------------|--------------------|--------------------|
| 1.             | NIL                | NIL                |

**C. Court Exhibits.**

| <u>Sr. No.</u> | <u>Exhibit No.</u> | <u>Description</u> |
|----------------|--------------------|--------------------|
| 1.             | NIL                | NIL                |

**D. Material Objects :**

| <u>Sr. No.</u> | <u>Exhibit No.</u> | <u>Description</u>              |
|----------------|--------------------|---------------------------------|
| 1.             | Article-A          | Mobile phone of Samsung Company |

The accused has faced the trial for the offences punishable under section 354-D of the Indian Penal Code, 1860 (IPC) and punishable under section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

**THE PROSECUTION CASE :-**

2] A statement (FIR) dated 12.01.2022 of the mother of the minor victim (Informant) which led to registration of crime No.21/2022 at the police station Bharati Vidyapeeth for the above offences. The unfolds prosecution case as below.

The date of birth of the minor is 18.11.2004. Her mother i.e. the informant was working in a cosmetic factory. The accused was a neighbour of the informant. While her family members used to reside at one place at Ambegaon, the accused developed a friendship with the minor. The accused always used to pressurize the minor to marry him. Hence, the informant was compelled to leave that place of that residence and shifted at Dabhadi. But thereafter also the accused always stalked the minor and committed her sexual harassment. One incident dated 11.01.2022 took place. At that time the informant was not at her house. Only two daughters including the minor of the informant were at the house. At that time the accused came at the house and instigated the minor to elope with him so as to perform marriage. The said incident was shared by the minor to the informant. There was clear disinclination by the minor to develop personal interaction or intimate relationship with the accused. Thus, the prosecution has come with the case that the accused committed the above offences. The prosecution when the case was opened proposed to prove its case by relying on the statement of the witnesses, panchanama of scene of offence and the birth certificate of the minor.

3] After registration of the crime, investigation was carried out by the then Senior Police Inspector Jaggannath Kalaskar (the IO). The IO filed a chargesheet in this court under section 173 of the Code of Criminal Procedure (Cr.P.C.) read with section 33 of the POCSO this being a special court. My learned predecessor after taking cognizance under section 190 Cr.P.C. issued process against the accused.

**CHARGES AND DEFENCE :-**

4] On the basis of the rival submissions and chargesheet as well as other investigation papers, my learned predecessor was pleased to frame the charges against the accused (Exh.04) for the above offences. By his plea (Exh.05) the accused denied the charges and claimed to be tried. Thus, the trial was necessitated.

5] Only the prosecution has adduced the evidence. From the tenor of the cross-examination and the statement of the accused recorded under section 313 of CrP.C. (Exh.22) the defence of the accused as of the total denial as regards the charge becomes apparent. He has complained of his false implication on the ground that the accused being from a different caste there was serious opposition by the informant of his marriage with the victim who was a major person at that time.

6] I have heard Mr. P. N. Bombatkar, the learned P.P. for the prosecution and Mr. S. V. Bhosale, the learned counsel for the

accused at length in support of respective contentions / submissions which are dealt with as and when required as below.

7] On the basis of the rival submissions and perusal of the material placed on the record, the following points for determination arise, to which I have given the findings for the reasons thereto.

| Sr. No. | Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Findings         |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1.      | Whether the prosecution has proved that the accused on 11.01.2022 at about 13.30 hours, at the house of the victim in Pune, by knowing that the age of minor victim girl is 17 years 1 month, used criminal force on her and outraged the modesty of her by saying that, “we will marry by fleeing away” and followed her. On 18.11.2021 the accused gave a mobile to minor victim girl as a gift and time to time contacting or attempting to contact her to foster personal interaction repeatedly despite a clear indication of disinterest by such minor victim girl and thereby committed an offence punishable under section 354-D of the Indian Penal Code, 1860 ? | ... In negative. |
| 2.      | Whether the prosecution has proved that on the above date, time and place and during the course of same transaction the accused committed sexual harassment upon the minor victim girl and thereby committed an offence punishable under                                                                                                                                                                                                                                                                                                                                                                                                                                  | ... In negative. |

|    |                                                                                                        |                                          |
|----|--------------------------------------------------------------------------------------------------------|------------------------------------------|
|    | section 11 read with section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) ? |                                          |
| 3. | What order ?                                                                                           | Accused is acquitted as per final order. |

### **REASONS**

8] As the evidence is very short, all the points are discussed and decided together. Even there is no need to have separate marshalling of the facts and appreciation of evidence.

### **AS TO POINT NOS.1 AND 2 :-**

9] Let me begin with the evidence of the victim. The victim has stated that her date of birth is 18.11.2004. Meaning thereby she was minor at the time of the incident. The victim has only stated that she used to talk with the accused. But thereafter the victim has not supported the prosecution. In the cross-examination by the learned P.P. the victim has stated that later on she married with the accused. Naturally it is difficult that the victim would support the prosecution. In the cross-examination by the accused even the victim has stated that her statement under section 164 of Cr.P.C. was under pressure from her mother. The married life of the victim is happy. Even in the statement under section 164 of Cr.P.C. except stating about her love affair with the accused, the victim did not state anything incriminating against

the accused. Thus, merely the evidence of a love affair when the girl is more than 17 years of age cannot give rise to any offence.

10] Now let me appreciate the evidence of the informant. The informant has stated in tune with the above noted prosecution case. It is apparent that except stating that the accused persuaded the victim to elope with him, there is nothing incriminating. Even the said persuasion can be accepted when the evidence of the informant is appreciated very liberally. It is not the case of the informant also that the accused committed any act of stalking or sexual harassment or outraging the modesty or even sexual harassment within the meaning of section 11 of the POCSO. Hence, even the examination-in-chief of the informant is not sufficient to convict the accused. In the cross-examination the informant has admitted that on 09.01.2023 due to a phone call from the police station itself she learnt about the marriage between the accused and the victim. The said incident took place on 09.01.2023. Meaning thereby after attaining the majority the victim married with the accused. In further cross-examination the informant has admitted that as the marriage is an intercaste marriage, it was opposed by the informant and her husband. Even at the police station the accused and the victim were beaten by the informant and her husband. Thus, I find that the evidence of the informant not only being about her derived knowledge but also because of her hatred towards the accused cannot be relied to convict the accused. Otherwise also assuming the case put forth by

the informant is correct, the accused cannot be convicted for his mere statement that he asked the victim to elope with him to marry. The fact that there was a love affair cannot be ignored. Hence, I find that the prosecution has failed to prove the charges. Accordingly, both the points are answered in negative.

11] The accused is to be acquitted for the discussion above. Any further remark about the investigation and prosecution is not required. The muddemal article i.e. mobile phone be given to concern authorities for its disposal as per the rules of destruction of E-waste after appeal period and after removing all the data. Thus, I proceed to pass the following order.

### **ORDER**

1. Accused Kishor Ashok Koli is hereby acquitted under Section 235 of the Code of Criminal Procedure, 1973 (Cr.P.C.) of the offences punishable under section 354-D of the Indian Penal Code, 1860 (IPC) and punishable under section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).
2. The bail bonds of the accused stand cancelled.
3. The accused to furnish a fresh bail of Rs.15,000/- with a surety of like amount under Section 437-A of the Code of Criminal Procedure, 1973 within 30 days from today.
4. The muddemal article be disposed of as observed in

para No.11 of this judgment.

(Dictated and pronounced in open Court).

Date : 22/04/2025

(A. L. Tikle)  
Additional Sessions Judge,  
Pune.

**CERTIFICATE**

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

|                          |                                                       |
|--------------------------|-------------------------------------------------------|
| Court Name               | Aniruddha L. Tikle<br>Additional Sessions Judge, Pune |
| Name of Stenographer     | S. Y. Shaikh, Steno (Grade-I)                         |
| Date of Judgment         | 22/04/2025                                            |
| Judgment signed by PO on | 31/05/2025                                            |
| Judgment uploaded on     | 31/05/2025                                            |