

MHKO010023412022 	Received on :- 24.06.2022 Registered on :- 27.06.2022 Decided on :- 10.08.2026 Duration :- Y. M. Ds. 04 01 17
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<u>IN THE COURT OF SPECIAL JUDGE, KOLHAPUR,</u> <u>AT KOLHAPUR</u> <u>(Presided over by A I. Perampalli–Special Judge)</u>	
<u>Spl. Case Child Prot. No. 135 of 2022.</u>	<u>Exh. No.26 /B.</u>
FIR No. 328/2022 Shahupuri Police Station, Dist. Kolhapur.	

Complainant	The State of Maharashtra,
Represented By	Ld. APP Smt. A. A.Kulkarni for the State.
Accused	1.Bhagoji Aappaji Shelke Age : 21 yrs., Occu. : Labour
	2.Sonabai Aappaji Shelke Age: 44 yrs, Occu-Housewife
	3.Aappaji Bhagoji Shelke Age:45 yrs, Occu: Agriculture
	4.Baban @ Chandrakant Pundlik Savare Age: 36 yrs, Occu: Business Accused Nos. 1 to 4 are R/O: Behind Mhasoba Temple, Ganesh nagar, Shingnapur, Tal-Karveer, Dist-Kolhapur.

Represented By	Shri. V. V. Patil, Ld. Adv. for accused.
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Date of offence	23/04/2022 to 26/04/2022
Date of FIR	26/04/2022
Date of Charge-sheet	24/06/2022
Date of Framing of Charges	26/11/2025
Date of commencement of evidence	25/06/2025
Date on which judgment is reserved	05/08/2026
Date of the Judgment	10/08/2026
Date of the Sentencing Order, if any	Accused are acquitted.

Accused Details

Sr. No	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, Cr.P.C.
1.	Bhagoji Appaji Shelke	26.4.22	6.7.22	Under Secs. 363,366,366 (A),323,506 r.w.34 of the IPC, u/Sec. 12 of POCSO Act and Sec.3 and 4 of the Prohibition of Child Marriage Act,2006.	Acquitted	--	---
2.	Sonabai Appaji Shelke	----	On anticipatory bail 4/5/22	Under Secs. 363,366,366	Acquitted	--	---

				(A),323,506 r.w.34 of the IPC, u/Sec. 12 of POCSO Act and Sec.3 and 4 of the Prohibition of Child Marriage Act,2006.			
3.	Bhagoji Appaji Shelke	----	On anticipatory bail 4/5/22	Under Secs. 363,366,366 (A),323,506 r.w.34 of the IPC, u/Sec. 12 of POCSO Act and Sec.3 and 4 of the Prohibition of Child Marriage Act,2006.	<u>Acquitted</u>	--	---
4.	Baban @ Chandrakant Pundlik Savare	----	On anticipatory bail 9/5/22	Under Secs. 363,366,366 (A),323,506 r.w.34 of the IPC, u/Sec. 12 of POCSO Act and Sec.3 and 4 of the Prohibition of Child Marriage Act,2006.	<u>Acquitted</u>	--	---

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW 1	XXXX	22	Father of the victim
PW 2	XXXX	23	Victim

B. Prosecution exhibits :

Sr.No.	Exh. Nos.	Description.
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C. Defence exhibit :

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D. Court Exhibits :

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E. Material Objects :

Sr. No.	MO/ Article Nos.	Description
1	Muddemal Article mentioned in column No.16 of the chargesheet at Sr. No.1	One Splendor motorcycle bearing No. MH-09-FD-2390.

- J U D G M E N T -

(Delivered on 10th August, 2026)

1. The accused No.1 Bhagoji Appaji Shelake, No.2 Sonabai Appaji Shelake, No.3 Appaji Bhagoji Shelake, No.4 Baban @ Chandrakant Pundlik Savare have charged for the offences punishable under Sections 363, 366, 366(A), 323, 506

r.w.34 of the Indian Penal Code, 1860 (In short, 'IPC'), under Sections 12 of Protection of Children from Sexual Offences Act, 2012 (In short, "POCSO Act"), so also under Sections 3 and 4 of the Prohibition of Child Marriage Act, 2006.

2. **Case of the prosecution in short as follows :-**

A) The complainant is the father of the victim, who lodged report in the Shahupuri police station stating that, he was living with his mother and three children. His daughter i.e. victim was staying at her paternal aunt at Kadamwadi. His wife is no more. After demise of his wife, the victim had been stayed at her paternal aunt. She was studying in 7th Standard and thereafter she left her school and used to help her aunt in household work.

B) On 24/4/2022, at about 11.10 hours, his sister called him on his phone stating that, on 23/4/2022 at about 8.30 a.m, when she was proceeding towards her work, the victim was alone at home. Thereafter, when she was returned back to home at about 6.00 p.m, she did not see the victim girl.

C) She thought that, the victim may be went at her neighbourers house, therefore she waited for her, but till late night hours, the victim did not return back to home, hence she called the complainant.

D) Thereafter, on 24/4/2022, at about 12.00 p.m, he along with his nephew came at the house of his mother at Kadamwadi and took search of the victim.

E) On 25/4/2022, at about 8.00 in the night, while he was taking search of his daughter/victim, one person by name 'Baban' called by Mobile No.99529839579 stating that, “ तुमची मुलगी शिंगणापुर येथे सुखरूप आहे, तुम्ही या आपण मिटींग घेवुन प्रकरण मिटवुन टाकू”. Hence, he along with his nephew and sister went at Shingnapur near Ganpati Temple, at that time the victim could not be seen there. Hence, he asked them that, firstly they bring their victim child. That time, that person told them that on 26/4/2022 at 12.30 hours, they should come.

F) Thereafter, on 26/4/2022, said Baban again made phone call and called them at about 12.30 hours. Hence, he along with Rongu Kasture, Pitabai Kasture, Bayabai Varak, Tanaji Varak, Bapu Yedge, all resident of Shahupuri, Dist-Kolhapur, were went near Ganpati Temple situated at Shinganapur. There, they learnt that, son of Aapa Shelke i.e. Bhagoji Shelke married with the victim. At that time, his daughter was also there and she was wearing Mangalsutra.

G) That time, he asked them that, “माझी मुलगी लहान आहे. अजुन तिला १८ वर्षे पूर्ण झालेले नाही. तुम्ही आम्हाला न विचारता लग्न केसे केले”. On that, said Baban abused them and started beating to

them. Hence, as they were beaten, they went away and lodged complaint in the police station in Shahupuri police station vide C. R. No.328/2022 against all the accused.

3. On the basis of the said report, investigation was set into motion. I.O. went to the spot, prepared spot panchanama, seizure panchnama, recorded statement of the victim as well as witnesses, obtained birth certificate. The I. O has also conducted medical examination of the victim, made correspondence regarding recording statement of victim under Section 164 of Cr. P.C. After completion of investigation, charge-sheet filed against all the accused .

4. Charge came to be framed against accused at Exh. 13. All accused pleaded not guilty and claimed to be tried.

5. Heard the arguments advanced by the Ld. APP Smt. A. A. Kulkarni and learned Advocate Shri. V. V. Patil for the accused.

6. Prosecution examined in all two witnesses viz., the victim's father XXXX (PW-1) (Exh.22) and victim, XXXX (PW-2) at Exh.23. It is to be noted that, as the witnesses have not supported to the case of the prosecution, no fruitful purpose will be served by examining remaining witnesses, hence in the facts and circumstances, further evidence of the prosecution has been closed by passing the order at Exh.1 and proceed further.

7. Nothing incriminating evidence has come on record against the accused, statement of the accused under Section 313 of Cr. P. C. is dispensed with. Neither the accused nor the witnesses stepped into the witness box.

8. After considering the facts of the case, defence of the accused and arguments advanced, the following points arise for my determination and my findings are recorded thereon for the reasons recorded hereinafter.

Sr.No.	Points	Findings
1.	Whether the prosecution has established beyond reasonable doubt that the victim girl was minor under 18 years of age on the alleged date of incidents i.e. 23/4/2022 to 26/4/2022?	.. In affirmative as .. proved.
2.	Does prosecution prove that on 23/04/2022 from 8.00 a.m to 26/4/2022 at about 19.45 p.m, from the house of sister of the complainant, situated at Kadamwadi where the victim was staying, the accused No. 1 kidnapped the minor victim and thereby committed an offence punishable under Section 363 of the IPC ?	.. Not proved
3.	Does prosecution prove that, on the aforesaid date, time and place, the accused No.1 kidnapped the minor victim, knowing it likely that the minor may be compelled to marry with him	.. Not proved

	against her will or will be forced to illicit intercourse and thereby committed an offence punishable under Section 366 of the IPC ?	
4.	Does prosecution prove that on the aforesaid date, time and place, the accused induced minor victim to go from custody of her parents with intent that she may be or knowing that it is likely that she will be forced to illicit intercourse with accused No.1 and thereby committed an offence punishable under Section 366(A) of the IPC ?	.. Not proved
5.	Does prosecution prove that on the aforesaid date, time and place, all accused, in furtherance of their common intention voluntarily caused hurt to the complainant and witnesses by beating them and thereby committed an offence punishable under Section 323 r.w. 34 of the IPC ?	.. Not proved
6.	Does prosecution prove that on the aforesaid date, time and place, all the accused, in furtherance of their common intention, committed criminal intimidation by threatening the complainant and witnesses with intent to cause alarm them and thereby committed an offence punishable under Section 506 r.w. 34 of the IPC ?	.. Not proved

7.	Does prosecution prove that on the aforesaid date, time and place, the accused committed sexual harassment on minor victim and thereby committed an offence punishable under Section 12 of the Protection of Children From Sexual Offences Act ?	.. Not proved
8.	Does prosecution prove that, the accused No.1, being a male adult above 18 years of age, performed a child marriage with minor victim aged about 13 years 07 months and the accused nos. 2 to 4 promoted the child marriage of victim with accused No.1 and participated in solemnizing a child marriage and thereby committed an offence punishable under Sections 3 and 4 of the Protection of Child Marriage Act, 2006 ?	.. Not proved
9.	Does the prosecution prove its case beyond reasonable doubt so as to warrant conviction of the all accused or whether the accused is entitled to be acquitted ?	Entitled acquittal.
10.	What order ?	.. All accused are acquitted.

- REASONS -

As to Point No.1 :

9. It is for the prosecution to prove that, the victim girl

was minor under the 18 years of age on the date of offence. The I. O. has produced on record Bonafide Certificate of the victim which reflects that the date of birth of the victim is 15/10/2008 and this fact is not challenged in the cross examination. Hence, it is establishes that, on the date of occurrences, the victim girl was minor. Hence, I answer point No.1 as proved.

As to Point Nos.2 to 8:

10. It is for the prosecution to prove that, the accused No.1 kidnapped the victim from the lawful custody of her family, compelled her to marry with accused No.1 against her will, and forced to illicit intercourse with the accused No.1, so also, all the accused in furtherance of their common intention, voluntarily caused hurt to informant and the witnesses by beating them and criminally intimidated them and caused sexual harassment of the victim, and all the accused performed a child marriage with minor victim and all of them participated in solemnizing a child marriage.

11. The prosecution examined the father of the victim XXXX at Exh.22 who deposed that, in the year 2022 he was residing along with his children and his wife is no more. The victim is his daughter and he do not know her birth date. In the year she was of 17 to 18 years. On 24/4/2022, she was residing at her paternal aunt. On that day, quarrel took place in between

them and she went away. Thereafter, her sister called him but he do not remember, on which date, she was called. She informed him that his daughter is not at home.

12. PW-1 further deposed that, on last day, he came at Kolhapur. They did not trace out his daughter. He suspected on the person by name Baban. He further deposed that, his mental conditions was not so good, hence, he did not remember as to what happened. He went near Ganpati Temple at Shingnapur to bring her daughter. Someone told him that his daughter was near the Ganpati Temple and he did not see his daughter there and hence he made complaint against the persons by name Shelke and Tavade. Except this, he did not want to say anything more. Along with him, other relatives of him were also present there. He further deposed that, it did not happen that, on 24/4/2022 one Baban called him and he narrated that his daughter was safe and fine and after taking a meeting, said issue may resolve by them. He further deposed that, it did not happen that, when he was reached at the temple, he saw that, she wore Mangalsutra in her neck and he learnt that, accused No.1 Bhagoji was married with the victim and he asked them even though they were having knowledge that his daughter was minor, all of them performed her marriage with the accused No.1.

13. As the PW-1, victim's father did not support to the

prosecution case, Ld. APP cross examined him. But, nothing has extracted from his cross examination in support of the prosecution. He denied that, he knows the person by name Baban and he assaulted them and abused them. He also denied that, when he reached there, her daughter was wearing Mangalsutra at her neck. He admitted that, on 26/4/2022 he had been to the police station, and the complaint bears his thumb impression on it, but he did not remember that, as to whether on 3/6/2022, the police has recorded his supplementary statement and he has stated to the police that marriage of the victim with the accused Baban was solemnized and the victim had asked to wear the Mangalsutra to create impression that they got married.

14. In his cross examination recorded by the Ld. APP, he (PW-1) denied the facts that, the portion mark 'A' in his statement was read over to him, so also, the date of birth of the victim, her education qualification, name of her school and exact age of the victim. He admitted his thumb mark on his statement before the Court, but he denied its contents. Lastly, he admitted the fact that, her daughter got married with another boy and she is having a kid. He is having fear that her name may be mentioned anywhere and her martial life may be ruined.

15. In his cross examination by the accused, he (PW-1), admitted that, he is having two daughters but he cannot tell the

place of their birth and dates of their birth. He cannot tell their exact age in the year 2022 and he has admitted that, entry regarding victim's birth date has not been made in any Grampanchayat and Municipal Corporation. Lastly he made a fair statement that, he is not having any complaint against anyone and smooth life of his daughter's married life is going on very well. Thus, nothing material has extracted from his cross examination in support of the prosecution. Hence, the evidence of PW-1 is not helpful to the prosecution to establish the case against all the accused.

16. In support of it, the prosecution has also examined PW-2 Victim XXXX at Exh.23 who deposed that, in the year 2022, her parents were residing at XXXX and her date of birth is 15/10/2005. She did not know at that time, in which standard and in which school she was studying. In the year 2022, she was residing at her paternal aunt's house. She did not remember, as to what happened on 22/4/2022 and on that day, whether accused No.1 told her to elope away with him and thereafter on 23/4/2002, he came along with his motorcycle and after parking his vehicle, he took her at one village by S.T Bus.

17. As the victim also did not support to the case of the prosecution, the Ld. APP sought permission to cross examine her. But, she denied all the facts. She did not know as to whether on 26/4/2022, her father filed complaint against the

accused and she did not know who is Baban Chavare. She denied the fact that, on 25/4/2022, said Baban Chavare made a phone call to accused No.1 regarding to solemnize their marriage after their arrival. She further denied that the said Baban asked them to come her by wearing Mangalsutra at Shani Temple on 26/4/2022. She did not remember that whether her father and her aunt were seen by her and occurrence of any assault took place between the accused No.1 Bhagoji and her relatives.

18. She (PW-2) further denied the fact that after assaulting, accused No.1 Bhagoji brought her at his house and on that day, police arrested Bhagoji. She also denied that, since 23/4/2022 till 26/4/2022, she was staying along with Bhagoji. She did not know the contents of her statement. She admitted that, she married with another boy and her statement was recorded before the Court, but she denied it's contents.

19. In her cross examination by the accused, she (PW-2) victim admitted that in the year 2022, she was more than 18 years of age. Lastly, she admitted that, her marriage is performed with another boy XXXX and now, she is not having complaint against anyone and in the year 2022 she was also having knowledge of good things and bad things. Nothing extracted from the evidence of this witness (PW-2) regarding kidnapping, performation of her marriage against her will with

accused No.1 and sexual harassment committed by all accused. Hence, her evidence is of no use to the prosecution to prove all the charges levelled against the accused.

20. Considering the totality of the facts and circumstances along with the evidence on record, I hold that the prosecution has failed to bring home the guilt of the accused beyond reasonable doubt. The victim xxxx (PW-2) did not support the prosecution and have not alleged any overtact on the part of all accused. The father of the victim (PW-1) did not state anything else regarding the occurrences happened with the victim. Hence, there is nothing on record from which it can be said that, their evidence is sufficient to the prosecution to establish all the charges levelled against the accused. Merely on basis of testimonies of those witnesses, all accused cannot be held guilty. As the charges levelled against accused are serious in nature, hence, it requires stringent proof. Under such circumstances the sole testimonies of both these witnesses is not sufficient to bring home the guilt of the accused.

21. It is well settled provision of law that benefit of doubt goes to the accused. As such the prosecution has failed to prove the necessary ingredients of the offences punishable under Sections 363, 366, 366(A), 323, 506 r.w.34 of IPC and under Section 12 of POCSO Act and under Section 3 and 4 of the Prohibition of Child Marriage Act, 2006, against all the accused

beyond reasonable doubt. Considering the entire evidence on record as discussed above it appears that the prosecution has failed to prove the offence against the accused beyond reasonable doubt.

22. It is cardinal principle of criminal justice system that the prosecution must establish the guilt of accused beyond reasonable doubt for the charges levelled on him. In present case at hand as discussed herein above there is no reliable evidence showing nexus of present all accused with the charges levelled on them. Hence, there is no alternative to this court except to answer all the points in the negative. It is needless to say I answered the Point Nos. 2 to 8 in the negative and pass the following order.

ORDER

(1) Accused No.1 Bhagoji Appaji Shelke, No.2 Sonabai Appaji Shelke, No.3 Appaji Bhagoji Shelke, No.4 Baban @ Chandrakant Pundlik Savare are hereby acquitted under Section 235 (1) of the Code of Criminal Procedure, 1973 for the offence punishable under Sections 363, 366, 366(A), 323, 506 r.w. 34 of the Indian Penal Code, 1860 and under Section 12 of Protection of Children from Sexual Offences Act, 2012 and under Section 3 and 4 of the Prohibition of Child Marriage Act, 2006.

(2) Bail bonds of accused Nos. 1 to 4 stand cancelled.

(3) The accused Nos. 1 to 4 shall execute bail bond of Rs.

50,000/- (Rs. Fifty Thousand only) each under Section 437-A of the Code of Criminal Procedure, and furnish surety in like amount by them which shall be in force for six months.

(4) The seized muddemal property mentioned in Column No.16 of the charge-sheet at Sr. No.1 i.e. one Splendor motorcycle bearing No. MH-09-FD-2390 has already been returned to it's original owner and he be retained it.

(5) Copy of this judgment be sent to the District Magistrate, Kolhapur vide Section 365 of Cr.P.C. The District Magistrate, Kolhapur shall submit compliance report to this Court.

(6) Special Case No.135/2022 stands disposed of.

(Dictated and pronounced in open court.)

Date :10/08/2026.

(**A. I. Perampalli**)
Additional Sessions Judge,
& Special Judge(POCSO)Kolhapur.