

Received on : 08.07.2013  
Registered on : 12.08.2013  
Decided on : 28.02.2014  
Duration : Y M D  
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**IN THE COURT OF THE SPECIAL JUDGE, PUNE**  
**AT : PUNE.**

**[Presided over by S.D. Darne, Special Judge & District Judge-01, Pune under The Protection of Children from Sexual Offences Act, 2012]**

**Special (Child) Sessions Case No. 55 of 2013**

Exh. No.

The State of Maharashtra,  
(Through PSO Chinchwad Police Station)

... Complainant.

Vs.

Prakash Yadav Naikwadi  
Age 46 years, Occ.: Nil.  
R/a. Digamber Govind Apartment,  
Flat No.17, 4<sup>th</sup> Floor, Near Dhaneshwar  
Mandir, Chinchwadgaon,  
Pune – 411 033.

**Appearances :**

Shri. P.S. Jadhav, Special Public Prosecutor for the State.  
Shri. Shaikh Advocate for the accused.

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**JUDGMENT**

(Delivered on 28<sup>th</sup> day of February, 2014)

1] This accused is prosecuted for the offences

punishable under Section 376(2)(f)(h), 376(A), 201, 506(2), 342, 323 of I.P.C. and Section 3 & 4 of The Protection of Children from Sexual Offences Act, 2012.

2] Prosecution's case in brief is that this accused, who is husband of informant has three daughters. The informant, who is wife of this accused is working with I.B.M.R. Collage, Wakad, Pune and she used to leave her house in the morning at 10 am and return back at 6.30 pm. This accused has no job. In the month of June,2011 when informant/wife of the accused was not present in the house and his two younger daughters were sleeping, accused started handling the body of the victim girl aged about 17 years and then gave threats to her. He had sexual relations with her. Thereafter also he did such act on several occasions. When she refused to do so he used to beat her and also used to threatened her that he will do similar acts with her younger sisters and also kill her mother. In the month of April 2013 the misdeed of the accused became intolerable to minor victim. Hence she narrated those facts to her mother, which resulted in their quarrel and the accused beat her mother. The mother of the victim i.e. informant was very scared. She took her all daughters to her sister's house at Nagar and told her all those facts. Still accused constantly harassed the mother of the victim and apprehending that the accused will kill the informant/mother, they went to police station and narrated the facts to the police about the sexual harassment of the victim girl. On that police registered the offence and the investigating officer recorded the statements of the victim girl and other witnesses. Victim was sent to the hospital for her examination, which reveals injury to her private

part. The accused was arrested and his medical examination was also done. Police recorded the panchanama of the spot of the scene and seized some articles from the spot as well as clothes of the victim and accused and they are sent for analysis to Forensic Laboratory and after completion of the investigation charge-sheet was filed in this Court.

3] Charge was framed against accused for offence punishable under Section 376(2)(f)(h), 376(A), 201, 506(2), 342, 323 of I.P.C. and Sec. 3 & 4 of The Protection of Children from Sexual Offences Act, 2012. and the same was read over and explained to him in vernacular. Accused pleaded not guilty and claimed to be tried. His defence is of total denial.

4] To prove the guilt of the accused, the prosecution has examined four witnesses and also produced some documents on record.

5] Considering the fact on record, following points arise for my determination and I record my findings against each of them for the reasons given below :-

| <b><u>POINTS</u></b>                                                                                     | <b><u>FINDINGS</u></b> |
|----------------------------------------------------------------------------------------------------------|------------------------|
| 1. Whether the accused committed rape on his minor daughter, who was at that time below 16 years of age? | .. In the negative.    |
| 2. Whether because of such sexual assault or rape, the victim was facing persistent vegetative state?    | .. In the negative.    |
| 3. Whether the accused threatened to kill the victim or her mother?                                      | .. In the negative.    |
| 4. Whether the accused made attempts                                                                     | .. In the negative.    |

|                                                                                            |                        |
|--------------------------------------------------------------------------------------------|------------------------|
| to disappear the evidence of rape?                                                         |                        |
| 5. Whether the accused had confined the victim to tell the offence of rape in the bedroom? | .. In the negative.    |
| 6. Whether the accused had caused hurt to the victim?                                      | .. In the negative.    |
| 7. what order?                                                                             | .. As per final order. |

### **REASONS**

#### **6] AS TO POINT NOS. 1 TO 6 :**

In this case all the serious charges leveled against the person, is a father of the victim, the informant is his wife. Accused is alleged to have committed all sort of sexual assault on his daughter itself and was subjected to traumatic situation for several years from 2011 to 2013. However, to once surprise, when the victim girl and informant are examined as P.W.1 and P.W.2, they did not tell anything. P.W.1- the informant stated that on 4.4.2013 when she returned to the house, her daughter told her that the accused in drunken state beat her. This witness was subjected to searching cross examination by the public prosecutor himself with permission of the Court, but she denied all the suggestions put to her.

7] P.W. 2 – the victim has similarly stated that this accused-her father used to come to house in drunken state and used to beat her and her mother. But she denied that any wrongful acts, as alleged in the FIR, were committed by him. This girl was also virtually cross-examined by the prosecution, but too no result. Only supporting witnesses are P.W. 3 Dr. Swati Kagane, who has examined the victim and the investigating officer P.W. 4 Seema Surve. However, the

evidence of the investigating officer is just formal. Whereas, P.W. 3 Dr. Swati Kagane stated that when she examined the victim girl who is of 17 years, she found inflammation of libia majora and hymen was torned completely and on the basis of the history and the clinical examination, she was of the opinion that the victim was subjected to repetitive vaginal intercourse and accordingly she has given the report of her examination, which is at Exh.16, wherein all these facts are stated.

8] In this case, as I stated earlier, the witnesses who were in a position to say something, chose to give clean chit to the accused as if he has done nothing. Doctor's stand was such that there was information of some kind of injury on the private part of the victim, but on the basis of that no inference can be drawn that she was sexually abused or assaulted by this accused or by anybody. It appears that there is reason to believe that the accused being father or husband of the informant, these witnesses choose not to say anything, but the result thereof is that the prosecution could not bring on record anything to draw the inference against the accused that he has committed any offence, much less charged of. Hence I have to record my findings on point Nos.1 to 6 in the negative. Hence I pass the following order :

### **ORDER**

1] The accused Prakash Yadav Naikwadi is acquitted under Section 235 of the Criminal Procedure Code, of the offences punishable under Sections 376(2)(f)(h), 376(A), 201, 506(2), 342, 323 of I.P.C. and Section 3 & 4 of The Protection of

Children from Sexual Offences Act, 2012.

2] His bail bond stands cancelled.

3] He be set at liberty.

4] The Muddemal Property being worthless, be destroyed after appeal period is over.

Sd/-

Pune,  
Dated : 28.02.2014. (S.D.Darne)  
Special Judge & District Judge-01, Pune  
(Under 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 : Mrs. D.D.Deshpande, H.G.

Court Name : Shri.S.D.Darne, District Judge-1, Pune.

Judgment Signed by P.O. On : 7.02.204.

Judgment uploaded on :- 10.3.2014.

Date of PDF file : 10.3.2014