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	Registered on	:	26.11.2019		
	Decided on	:	04.04.2026		
	Duration	:	Y.	M.	D.
			06	04	08

Part 'A'

(Title Page of Judgment)

(Para 44(i) of Chapter VI of Criminal Manual)

<u>IN THE COURT OF SPECIAL JUDGE (POCSO ACT),</u> <u>AT : NEWASA, DIST. AHMEDNAGAR</u> (Presided over by : Haribhau R. Waghmare)	
	SPECIAL CASE NO.296/2019 Exh. No.164
	Date of the Judgment : 04.04.2026
	Crime No.29/2019 Sonai Police Station, Tal. Newasa, Dist. Ahmednagar.
<u>PROSECUTION :</u>	The State of Maharashtra, Through : Police Station Officer, Sonai Police Station, Tal. Newasa, Dist. Ahmednagar.
Represented by :	SPP Shri. V. K. Bhorde
ACCUSED	1. Avinash @ Akshay Ashok Chavhan, Age : 22 Yrs., Occ. : Driver, 2. Akshay Babasaheb Darkunde, Age : 21 Yrs., Occ. : Private Job, 3. Dnyaneshwar Dagadu Barde, Age : 18 Yrs., Occ. : Education, 4. Vikas Pandurang Jadhav, Age : 21 Yrs., Occ. : Labour, All R/o. Morgavhan, Tal. Newasa, Dist. Ahmednagar
Represented by :	Adv. Shri. B. S. Kale

Part 'B'

(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of Offence	: From December 2018 to 24.01.2019
Date of FIR	: 26.01.2019
Date of Charge-sheet	: 26.11.2019
Date of Framing of Charge	: 01.12.2021
Date of Commencement of Evidence	: 21.07.2025
Date on which Judgment is reserved :	: 01.04.2026
Date of Judgment	: 02.04.2026
Date of Sentencing Order, if any	: N.A.

ACCUSED DETAILS

Rank of the accused	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 the purpose of Sec.428 of Cr.P.C.
1	Avinash @ Akshay Ashok Chavhan,	27.01.2019	02.02.2019	U/ss. 354-D, 504 r/w 34 of IPC & U/s. 12 of POCSO Act	Acquitted	N/A	N/A
2	Akshay Babasaheb Darkunde,	27.01.2019	02.02.2019	U/ss. 354-D, 504 r/w 34 of IPC & U/s. 12 of POCSO Act	Acquitted	N/A	N/A
3	Dnyaneshwar Dagadu Barde,	27.01.2019	02.02.2019	U/ss. 354-D, 504 r/w 34 of IPC & U/s. 12 of POCSO Act	Acquitted	N/A	N/A
4	Vikas Pandurang Jadhav,	27.01.2019	02.02.2019	U/ss. 354-D, 504 r/w 34 of IPC & U/s. 12 of POCSO Act	Acquitted	N/A	N/A

Part 'C'

(Para 44 (iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. PROSECUTION :**

Rank	Name	Nature of Evidence
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PW-1	Victim girl child	Informant
PW-2	Subhash Sukhadev Vane	Panch
PW-3	Father of victim	Witness
PW-4	Shyam Sudam Shinde	Witness
PW-5	Rajendra Ramchandra Bhutkar	Witness
PW-6	Vilas Sudamrao Chavali	Investigating officee

B. DEFENCE WITNESSES, IF ANY :

Rank	Name	Nature of Evidence
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C. COURT WITNESSES, IF ANY :

Rank	Name	Nature of Evidence
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. PROSECUTION :**

Sr.No.	Exhibit Number	Description
1.	Exh.31	Charge
2.	Exhs. 32 to 35	Plea of accused
3.	Exh.94/PW-1	FIR dtd. 26.01.2019
4.	Exh.95/PW-1	Her statement U/s. 164 of Cr.PC.
5.	Exh.120/PW-2	Seizure panchanama of mobile phone
6.	Exh.121/PW-2	Seizure panchanama of motorcycle
7.	Exh.145/PW-4	Birth certificate of the victim
8.	Exh.146/PW-4	Birth register extract showing entry of registration of birth of victim
9.	Exh.147/PW-4	Receipt of hospital showing birth date of victim

10.	Exh.148/PW-4	Copy of birth certificate Article-A submitted by the victim
11.	Exh.151/PW-5	Spot panchanama dtd.28.01.2019
12.	Exh.155/PW-6	Order of investigation

B. DEFENCE :

Sr.No.	Exhibit Number	Description
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C. COURT WITNESSES, IF ANY :

Sr.No.	Exhibit Number	Description
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D. MATERIAL OBJECTS :

Sr.No.	Material Object Number	Description
1.	Article-A/PW-1	Copy of her birth certificate
2.	Article-B/PW-1	Mobile Phone
3.	Article-C/PW-2	Photograph of seizure of motorcycle
4.	Article-D to H/PW-5	Photographs snapped during spot panchanama
5.	Article-I/PW-6	Letter issued for CDR & SDR of the accused

:: J U D G M E N T ::

(Delivered on this 04th day of April, 2026)

Accused have faced the trial for the offences P/U/Secs.354 (D) & 506 r.w. 34 of the Indian Penal Code and Sec.12 of the Protection of Children from Sexual Offences Act.

2] On 26/1/2019 victim lodged report Exh.94 with Sonai Police Station contending that she is studying in 10th Std. at

Ghodegaon. She along with her girl friend and cousin sister go to the school on bicycle. Accused Avinash studies in her school in 12th Std. From December 2018 he is following her and attempts to talk with her. In the month of December, on the day of her unit test of Marathi subject, accused Avinash entered in her class. He was attempting to talk with her and was laughing at her. Her cousin sister witnessed the incident. After examination, when she was returning to the house, near Mahadev temple, accused Avinash said her that he loves her and whether she wants to talk him or not. She replied in negative. Thereon, he said her that tomorrow is his birth day and talk him at least on that day. She refused to it and told him to not to follow her. But still he was following her. Eight days before she, her girl friend and cousin sister were going to the school. On their way, accused Avinash was standing in a river. He asked her to wait. He asked her whether she wants to talk him or not. She replied in negative and said him to not to follow her. He followed her for long distance. From last month, accused Avinash is following her and pressurizing her for friendship.

3] Victim further stated that accused Akshay, Dnyaneshwar and Vikas follow and trouble her on the way of her school. From 8 – 10 days they sand at hand pump near to her house. Accused Akshay says her to love him else he will kidnap her. On 24/9/2019 at about 1-00 p.m. when she was alone at home, accused Akshay's friends accused Vikas and Dnyaneshwar put mobile in garbage in the river in front of her house and said her that mobile is of Akshay. They asked her to take that mobile and talk with Akshay daily. She

refused to it. They threatened her that they will kidnap her. Therefore, she took the said mobile. It was of Samsung company and it was having SIM No.7887793036. From eight days accused Akshay makes call on that mobile and says her to love him. She refused to it but still Akshay, Dnyaneshwar and Vikas follow her and threaten her. From eight days they three wait on her way. Akshay says her that he loves her and threatens her to kidnap. He makes phone to her frequently.

4] Based on such report, police registered Cr. No.29/2019 for the offences P/U/Secs.354 (D) & 506 r.w. 34 of IPC and Sec.11(1) r.w.12 of POCSO Act and made further investigation. IO visited the spots and drawn spot panchnama. Seized mobile from victim's father and motorcycle from accused's brother. Recorded statements of the witnesses. After investigation, IO submitted charge-sheet against the accused.

5] During the trial, accused are on bail.

6] My predecessor has framed charge against the accused at Exh.31 for the offences P/U/Secs.354(D) & 506 r.w.34 of IPC and Sec.12 of POCSO Act. Accused pleaded not guilty and claimed to be tried. Their defence is of total denial and false implication in the case due to victim's cross terms with the sister of accused Avinash.

7] Hear APP Shri. V. K. Bhorde for the prosecution and adv. Shri. B. S. Kale for the accused.

8] Following points arise for determination and record

findings thereon for the reasons followed thereafter.

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does prosecution prove that in furtherance of their common intention to foster relations with the victim and to outrage her modesty, accused repeatedly followed her and outraged her modesty ?	NO.
2.	What order ?	Accused are acquitted.

Reasons for the above findings are as follows :

:: REASONS ::

9] To bring home guilt of the accused, prosecution has examined in all six witnesses.

10] In defence, no evidence is adduced by the accused.

POINT Nos.1 & 2 :

11] Victim PW -1 and her father PW – 3 have deposed that victim’s date of birth is 26/02/2003. Shyam Shinde PW-4 is clerk in Municipal Corporation, Ahmednagar. He has deposed that victim is born in Bedre Hospital, Ahmednagar. He has further deposed that victim’s date of birth is registered in birth register on the basis of intimation given by that hospital. He has deposed that as per birth register, victim’s date of birth is 26/06/2003. He has proved birth certificate Exh.145, extract of birth register Exh.146 and intimation Exh.148 given by the hospital. Accused could not bring on record

any thing to impeach his credibility. As such, victim's date of birth stands duly proved by the prosecution. So, it stands proved that victim was child at the time of alleged incident.

12] Victim has deposed that in the year 2010, she was studying in 10th Std. Her school was 5-6 k.m. from her house she was going to the school on bicycle. She has deposed that on the way of her school, accused Avinash was following her. He was saying her to love him, do friendship with him and talk with him. She has further deposed that at the time of her unit test, accused Avinash came in the window of her class room and said her to talk with him.

13] Victim has further deposed that accused Vikas, Dnyaneshawar and Akshay were troubling her. Accused Vikas and Dnyaneshawar put mobile of Akshay in garbage in the river in front of her house and said her to take that mobile and go on talking with Akshay. She refused to it. Vikas and Dnyaneshawar threatened her that if she did not took that mobile or did not talk with Akshay then they will kidnap her. She has deposed that due to threat, she took that mobile. For 2 – 3 times Akshay made phone on that mobile but she did not receive it.

14] Victim's father has deposed that on 26/01/2019 victim told him that on 24/01/2019 Vikas and Dnyaneshawar put mobile in the garbage in the river and asked her to take that mobile. He has deposed that victim told him that accused threatened her that they will kidnap her, therefore, she took that mobile. She told that mobile was with her for 2 – 3 days. Accused Akshay was repeatedly

making phone to her and was saying her to love him and was threatening him. He has deposed that victim told him that Avinash was was following her and was saying that he loves her. Suffice to say that victim's father is not eye witness to any of the incident. His evidence is hear say. He is deposing what the victim told him. So, unless victim's testimony is consistent and reliable, evidence of her father will not lend support to the prosecution case.

15] In the FIR, victim has stated that she was going to the school with her girl friend and cousin sister. She has stated that from December 2018 accused Avinash was following her. She has stated that eight days before, she along with her cousin sister and girl friend was going to the school. Accused Avinash stopped her and asked her whether she wants to talk with him or not. She has further stated that on the day of her unit test of Marathi subject accused entered in her class room and attempted to talk with her. She has stated that the incident was witnessed by her cousin sister. In the statement Exh.95 victim has stated that at the time of unit test, accused Avinash was entering in her class room and said her that he likes her and why she does not talk with him. Apart from victim and her cousin sister, other students may be in the class room. But the prosecution has not examined victim's girl friend or cousin sister. FIR shows that victim's cousin sister and girl friend have witnessed every act done by accused Avinash with the victim but till lodging FIR, neither victim nor her cousin sister have disclosed either of the incident to their family members.

16] In the statement Exh.95 U/Sec.164 of Cr. P. C. Victim

has stated that at the time of unit test accused Avinash was entering in her class and was saying her that he likes her and why she does not talk him. In the FIR, victim has stated single incident of entering the accused Avinash in her class room but her statement Exh.95 shows that accused was repeatedly entering in her class room. Furthermore, before the Court victim does not say that accused Avinash had entered in her class room but she has deposed that accused had come to the window of her class room.

17] In the statement Exh.95, the victim has stated that accused Avinash was saying her girl friends to enquire with her as to why she does not talk with him. But in the FIR victim does say so. Nor she has stated name of her girl friend to whom accused Avinash was enquiring about her. Nor said girl friend is examined by the prosecution as a witness.

18] In the FIR as well in the statement Exh.95, victim has stated that after finishing unit test when she was returning to the house, near Mahadev temple, accused Avinash said her that tomorrow is his birth day and talk him at least on that day. As per FIR, victim's unit test was in the month of December. But in the statement Exh.95, she has stated that her unit test was in 10th month means October. So she is not firm whether her unit test was in the month of October or December.

19] In the statement Exh.95 victim has stated that after 2 – 3 days, accused Avinash came in the river in front of her house and said her that he loves her, talk with him else he will finish her. She said that she will not talk with him. Thereafter, after 2 – 3 days

accused Avinash met her on the way and said her that if she does not talk with him he will consume poison. She has stated that he stands at hand pump near to her house and makes gestures to her. She has stated that on 24/1/2019 at 6 p.m., accused Akshay made phone to her and called her near hand pump at 8 p.m. she refused to it, still for two days he came near hand pump and gave more trouble. All these incidents are missing in the FIR nor she deposed so.

20] In the statement Exh. 95, victim has stated that accused Akshay, Dnyaneshwar and Vikas are friends of Akshay. She has stated that on 25/1/2019 they put mobile in the river near to her house. Accused Dnyaneshwar and Vikas threatened her to talk with Akshay on mobile else they will finish her, will kidnap her. She has stated that she had not taken the mobile. In the FIR victim has stated that accused Dnyaneshwar and Vikas put mobile in the garbage in the river but in the statement Exh.95 she has stated that accused Akshay, Dnyaneshwar and Vikas put mobile in the river. In the FIR, she has stated that since accused Dnyaneshwar and Vikas had threatened her, she had taken that mobile and accused Akshay was repeatedly making phone to her.

21] In the FIR victim has stated that accused were standing near hand pump near to her house and were making gestures at her. In the cross-examination victim has admitted that there are many houses near to her house. If either of the accused was standing near hand pump continuously, then either of the victim's neighbour would have seen him. But no such evidence is given by

the prosecution. In the examination-in-chief victim has deposed that due to fear she had not disclosed to her parents about the trouble given to her by the accused but in the cross-examination she has deposed that she had told about it to her father and uncle. She has further deposed that her father and uncle had given understanding to accused Avinash, his father and Vikas. So, victim is not firm whether before lodging FIR, she had disclosed about the incidents to her family members or not.

22] IO Vilas Chavali PW – 6 has given the account of the investigation made by him. He has deposed that he seized motorcycle from Kanif chavan - brother of accused. Panch Subhash Vane P. W. 2 has deposed that on 26/01/2019 police seized mobile Art. 'B' from victim's father and drawn panchnama Exh.120. As per the FIR, there was SIM card in the mobile. However, no evidence is given by the prosecution to show that mobile is of either of the accused. Panch Subhash Vane P. W. 2 has further deposed that on 28/01/2019 police seized motorcycle and drawn panchnama Exh.121. However, he is unable to say from whom that motorcycle is seized. Therefore, seizure of mobile or motorcycle does not help the prosecution much.

23] IO and Panch Rajendra Bhutkar PW-5 have deposed that on 28/01/2019, they drawn spot panchnama Exh.151 in the victim's school, neat Mahadev temple and in the river in front of victim's hosue. However, nothing incriminating is found on the spot of incidents, therefore, panchnama Exh.151 also does lend much support to the prosecution case.

24] IO has deposed that he collected mobile CDR of the accused. He has further deposed that from the mobile CDR Art. 'T' it is revealed that accused had made call on the phone given to the victim. There are four accused. He does not say which accused had made phone to the victim. In the cross-examination, victim has deposed that mobile given by the accused was with her for two days. At one place she has deposed that she had not taken the mobile put by the accused in the river but in the FIR and statement Exh.95 she has stated that due to threat given by the accused she had taken that mobile and accused Akshay was making phone on that mobile. So, victim is not firm whether she had taken the mobile or not. In the cross-examination, victim has deposed that for 2 – 3 times accused Akshay made phone on that mobile but she had not received that phone. But her father and in the FIR victim has stated that accused Akshay was saying her to love him. Unless the victim receives phone, she will not know about the words used by accused Akshay. Means, here also victim is making inconsistent statement.

25] Above discussion makes it clear that the victim's testimony is not consistent with her FIR. She is making different statements in the FIR, statement Exh.95 and before the Court. Therefore, victim is unsafe rely upon. In spite of availability of independent witnesses, prosecution has not examined them. Resultantly, prosecution fails to prove that either of the accused followed the victim with view to foster relations with her or outraged her modesty. **So, I answer point No.1 in the negative.** Consequently, all the accused deserve for acquittal. Seized mobile

hand set Art. 'B' is not claimed by the accused, therefore, mobile hand set deserves to be auctioned and its sale proceed needs to be credited to the Government. SIM card in the mobile hand set Art. 'B' needs to be returned to the concerned mobile company. Seized motorcycle needs to be returned to Kanif Ashok Chavan. **Point No.2 is answered accordingly.**

In the result, I pass the following order.

:: ORDER ::

- (1) All the accused stand acquitted and set at liberty U/Sec.235(1) of Cr. P. C. for the offences P/U/Secs.354 (D) & 506 r.w. 34 of IPC and Sec.12 of POCSO Act.
- (2) Their bail bonds stand discharged.
- (3) Seized mobile hand set Art. 'B' be auctioned after appeal period and its sale proceed be credited to the government.
- (4) SIM Card in mobile hand set Art. 'B' be returned to the concerned company.
- (5) Custody of seized motorcycle bearing registration No.MH-05-Q-6174, be returned to **Kanif Ashok Chavan**, after appeal period.

Date : 04/04/2026
Place : NEWASA

(Haribhau R. Waghmare)
Addl. Sessions Judge
JO Code : MH001652