

MHAH130006612023 	Presented on	:	12.07.2023		
	Registered on	:	12.07.2023		
	Decided on	:	27.03.2026		
	Duration	:	Y.	M.	D.
			02	08	15

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.184/2023	Exh. No.71
	Date of the Judgment :	27.03.2026
	Crime No.275/2023	Newasa Police Station, Tal. Newasa, Dist. Ahmednagar.
<u>PROSECUTION :</u>	The State of Maharashtra, Through : Police Station Officer, Newasa Police Station, Tal. Newasa, Dist. Ahmednagar.	
Represented by :	SPP Shri. M. S. Kale	
ACCUSED	Hrishikesh Shivaji Solate, Age : 26 Yrs., Occ. : Labour, R/o. Chanda, Tal. Newasa, Dist. Ahmednagar	
Represented by :	Adv. Shri. B. B. Autade	

Part 'B'

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

Date of Offence	:	From 04.03.2023 till 08.03.2024
Date of F.I.R.	:	04.03.2023
Date of Charge-sheet	:	12.07.2023

Date of Framing of Charge	: 02.03.2024
Date of Commencement of Evidence	: 09.12.2025
Date on which Judgment is reserved :	: 24.03.2026
Date of Judgment	: 27.03.2026
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.
	Hrishikesh Shivaji Solate,	09.03.2023	13.04.2023	U/ss. 363, 366, 376(2)(j)(n) of IPC and U/ss. 5(l) P/U/s. 6, U/s.7 P/U/s.8 and U/s. 11 P/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
PW-1	The victim	Victim/daughter of informant
PW-2	The father of victim	Informant
PW-3	Javed Ashpak Pathan	Panch
PW-4	Vikram Laxmangiri Gosavi	Panch
PW-5	Vijay Bhaguji Sarode	Headmaster of Z.P. School of the village 'NN'
PW-6	PSI Manoj Mundhe	Investigating Officer
PW-7	Dr. Bagwan Mohsin	Medical Officer

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.11	Charge
2.	Exh.12	Plea of accused
3.	Exh.26/PW-1	Her statement U/s. 164 of Cr.PC.
4.	Exh.28/PW-2	FIR
5.	Exh.35/PW-3	Spot panchanama of the Guest House at Pune
6.	Exh.44/PW-4	Seizure panchanama of clothes of accused
7.	Exh.45/PW-4	Seizure panchanama of clothes of victim
8.	Exh.53/PW-5	Verified copy of General Register of School showing entry No.1718 of the victim
9.	Exh.57/PW-6	Spot panchanama of the house of victim
10.	Exh.63/PW-7	MLC of the accused
11.	Exh.64/PW-6	MLC of the victim
12.	Exh.65 to 67/PW-6	CA reports

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	Black Top
2.	Article-B/PW-1	Ash Coloured Pant
3.	Article-C/PW-1	Pink Ladies Inner
4.	Article-D/PW-1	Bluish Bra
5.	Article-E/PW-1	Black Shirt
6.	Article-F/PW-1	Ash Coloured Baniyan
7.	Article-G/PW-1	Ash Coloured Jeans
8.	Article-H/PW-1	Blue Underwear
9.	Article-I/PW-6	Birth Certificate of the victim issued by BDO

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

(Delivered on this 27th Day of March, 2026)

Accused has faced the trial on the accusations that he kidnapped the minor victim girl and did repetitive penetrative assault on her and thereby committed offences P/U/Secs. 363, 366, 376(2)(j)(n) of the Indian Penal Code (*For short 'IPC'*) and P/U/Secs. 5(l) P/U/s. 6, U/s.7 P/U/s.8 and U/s. 11 P/U/s.12 of the Protection of Children from Sexual Offences Act (*For short 'POCSO Act'*).

2] In brief, prosecution case is that on 04.03.2023, victim's

father lodged report Exh.28 with Newasa Police Station contending that victim child is missing from the house. He apprehended that somebody has kidnapped her. Based on this report, police registered CR No.275/2023 for the offence P/U/Sec. 363 of IPC and took over investigation.

3] Accused and victim were found in a lodge at Pune. Victim gave statement that accused has forcibly kidnapped her and did sexual intercourse with her against her will. Based on her statement, other sections were added against the accused and after investigation, IO submitted charge-sheet against the accused for the offence P/U/Secs. 363, 366, 376(2)(j)(n) of IPC and U/ss. 5(l) P/U/s. 6, U/s.7 P/U/s.8 and U/s. 11 P/U/s.12 of POCSO Act.

4] During the trial, accused is on bail.

5] My predecessor framed charge against the accused at Exh.11 for the aforesaid offences. Accused pleaded not guilty and claimed to be tried. From the line of cross-examination of the prosecution witnesses and statement U/Sec. 313 of Cr. P. C., defence of the accused is of total denial and false implication in the case.

6] Following points arise for determination and I record findings thereon for the reasons followed thereafter :

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the prosecution prove that accused kidnapped the victim girl child and did repetitive sexual intercourse with her against her will ?	NO.
2.	What Order ?	ACCUSED IS ACQUITTED.

Reasons for the above findings are as follows :

:: R E A S O N S ::

7] To bring home guilt of the accused, prosecution has examined in all seven witnesses and also relied on certain documents.

8] In defence, no evidence is given by the accused.

POINT NOS.1 & 2 :

9] Victim (PW-1), her father (PW-2) and school headmaster Vijay Sarode (PW-5) have deposed that victim's date of birth is 14.04.2005. Headmaster Vijay Sarode (PW-5) has proved the extract of General Register Exh.53.

10] Adv. Shri. B. B. Autade for the accused has submitted that school headmaster has admitted that he has no record to show on what basis, victim's date of birth is registered in the school. So, he submits that prosecution has failed to prove that victim was child at the time of alleged incident. To lend support to this submission, he has relied on *Sandeep Janaji Konde Vs. The State of Maharashtra, 2016 ALL MR (Cri) 1433 (Bom. H.C.)*. However, I do not find substance in this submission nor above decision assists the accused. The school headmaster has deposed that victim was admitted in his school in the first standard. Even victim's father has deposed so. So it is her first school. There is consistent and positive evidence to show that at the time of alleged incident, the victim was minor.

11] Victim has deposed that in the midnight of 03.03.2023, accused forcibly took her to a lodge at Pune and did sexual intercourse with her. However, she does not depose the manner in which accused forcibly kidnapped her. She has denied that she was in love with accused. She has further denied giving such statement to the IO. Adv. Shri. B. B. Autade has submitted that the statement given by the victim to the IO is duly proved by the accused which shows that victim is unworthy of credit.

12] In the police statement, in portion marks Exhs.58 to 61, the victim has stated that she was in love with the accused and since her parents were searching bridegroom for her, she and accused decided to run away. Her police statement further shows that from Ahmednagar to Pune, she and accused had traveled by bus. If the accused had forcibly kidnapped her or if she was unwilling to go with the accused, then there was ample opportunity to the victim to get help of the co-passengers, but she did nothing.

13] In the statement Exh.26 recorded U/Sec. 164 of Cr.P.C., the victim has stated that accused made her phone and called out of house saying that otherwise he will finish her father and brother. It should be noted that at the relevant time, the victim was sleeping in her house and as per her, the accused gave threat to her on phone. So, victim could have stated to her parents about the threat given by the accused, but instead of it, she went with the accused. In the statement Exh.26, victim has stated that accused was sending messages to her on Instagram and via text messages. She has stated that she had blocked the accused on phone. But, she does not say that she had informed her parents.

14] The victim has deposed that she had no talk with the doctor. Dr. Bagwan Mohsin (PW-7) has medically examined the victim. He has deposed that the victim gave history that she was in love with the accused from two years. He has deposed that the victim gave history that she has sexual relations with the accused with her consent. Considering all these aspects, the plea taken by the accused that the victim was in his love seems more probable and acceptable. In such circumstances, denial by the victim about her love affairs with the accused makes her unworthy of credit to believe that accused kidnapped her and did sexual intercourse with her against her will.

15] Adv. Shri. B. B. Autade for the accused has submitted that victim was at the verge of attaining majority. In such circumstances, even if it is accepted that accused had sexual intercourse with her with her consent, that does not amount rape or penetrative sexual assault, but it is romantic relationship. To support this submission, Adv. Shri. B. B. Autade has relied on **Ashik Ramjan Ansari Vs. The State of Maharashtra & Anr., 2023 ALL MR (Cri) 2669 (Bom.H.C.).**

16] Dr. Bagwan Mohsin (PW-7) has deposed that in the medical examination of the victim, he found that victim's hymen is ruptured. But, as per the history given by the victim to Dr. Bagwan Mohsin (PW-7), the victim had sexual contact with the accused six months prior to the incident. In such circumstances, it will be case of absence of hymen and not hymen rupture. Furthermore, Dr. Bagwan has admitted that hymen can be ruptured by playing bicycle, long jump or any strengthen exercise. So, mere absence or

rupture of hymen is not conclusive to say that there was sexual contact with the victim. CA reports Exhs.65 to 67 do not support the prosecution to show that there was sexual contact with the victim.

17] At one place, victim's father (PW-2) has deposed that victim did not told him anything about sexual intercourse with her by the accused, but at the other place, he has deposed that the victim has told him so. So, he is making inconsistent statements. As said above, victim is unworthy of credit. Therefore, she is unreliable to say that accused has sexual contact with her, much less without her consent. So, the prosecution has failed to prove that accused kidnapped the victim or did sexual intercourse with her.

18] Panch Javed Pathan (PW-3) is examined by the prosecution to prove the spot panchanama Exh.35 of Orchid Guest House, Pune. Panch Vikram Gosavi (PW-4) is examined by the prosecution to prove seizure of the clothes of accused and victim vide panchanamas Exhs.44 and 45. IO Manoj Mundhe (PW-6) has given account of the investigation made by him. But as said above, the prosecution could not prove that the accused kidnapped the victim or did sexual intercourse with her, therefore the evidence of Panchas (PW-3 & PW-4) and investigating officer (PW-6) remains formal in nature and does not assist the prosecution to further its case anymore. **Accordingly, I answer point No.1 in the negative.** For the reasons discussed above, accused deserves for acquittal. Wearing clothes of the accused and victim being worthless, they need to be destroyed after appeal period is over. **Point No.2 is**

answered accordingly.

In the result I pass the following order.

:: ORDER ::

- (1) Accused stands acquitted and set at liberty U/Sec. 235(1) of Cr. P. C. for the offences P/U/Secs. 363, 366, 376(2)(j) (n) of IPC and U/ss. 5(l) P/U/s. 6, U/s.7 P/U/s.8 and U/s. 11 P/U/s.12 of POCSO Act.
- (2) His bail bonds stand discharged.
- (3) Seized clothes (PR No.15/2025 Art. 1 to 8) be destroyed, after appeal period.

Date : 27/03/2026

Place : Newasa

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