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SPECIAL CASE NO. 20 OF 2021

EXH NO. 120

FORM NO. XXXII Part 'A' (Title Page of Judgment) [Para 44(i) of Chapter VI of Criminal Manual]	
<u>IN THE COURT OF JUDGE, SPECIAL COURT, BULDHANA</u> (Presided over by Shaikh Akbar Shaikh Jafar)	
Date of Judgment :	7/5/2026
<u>SPECIAL CASE NO.</u>	<u>20/2021</u>
FIR/Crime No.	64/2021
Police Station :	Dhad, Dist.Buldhana
Prosecution	State of Maharashtra, through Police Station Dhad,
Represented by	Learned APP Smt.Sonali Saoji-Deshpande,
Accused	1] Motilal Kalu Parmeshwar, Age-60 years, 2] Shobhabai @ Subha Motilal Parmeshwar, Age-50 years, 3] Deepak Motilal Parmeshwar, Age-31 years, 4] Kiran Motilal Parmeshwar, Age-30 years, All R/o Gajanan Nagar, Dhad, Tq. Dist. Buldana
Represented by	Learned Counsel Shri R.D.Meher.

Part 'B'

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

Date of offence	25/3/2021
Date of FIR	26/3/2021
Date of Charge-sheet	24/5/2021
Date of framing of Charges	10/6/2022
Date of commencement of Evidence	13/2/2026
Date on which Judgment is reserved	7/5/2026
Date of the Judgment	7/5/2026
Date of the Sentencing order, if any	--

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 purpose of Section 428
1.	Motilal Kalu Parmeshwar	29/3/21	29/3/21	U/Secs. 376 r/w 375(5), 376(3)	Accused are acquitted.	--	--
2.	Shobhabai @Subha Motilal Parmeshwar	18/5/21	18/5/21	r/w 34, 376-D, 506 of IPC & Secs.4,8, 17 of the POCSO Act			
3.	Deepak Motilal Parmeshwar	18/5/21	18/5/21				
4.	Kiran Motilal Parmeshwar	26/3/21	26/3/21				

Part 'C'

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

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

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
PW 1	Rohini Ganesh Aghay, [Exh.80],	Informant,
PW 2	Victim [Exh.86],	Victim,
PW 3	Raju Sahebrao Bawaskar [Exh.89],	Panch witness,
PW 4	Baburao Nathurao Hudekar [Exh.92],	Police witness,
PW 5	Nilesh Kacharu Upsunde [Exh.100],	Investigating Officer,

B. DEFENCE WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
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C. COURT WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit	Description
1.	PW 1-Exh.81, Exh.82, Exh.83, Exh.84,	Signatures on Report and printed FIR, statement u/Sec. 164 of Cr.PC, signature on consent form,
2.	PW 3-Exh.90,	Spot panchnama,
3.	PW 4- Exh.93, Exh.94,	Report, printed FIR,
4.	PW 5- Exh.101 & Exh.102, Exh.103, Exh.104, Exh.105 to Exh.108, Exh.109, Exh.110, Exh.111, Exh.112, Exh.113,	Letters to Secretary, G.PDhad, letter to Circle Inspector, Spot panchnama, arrest panchnama, four seizure panchnamas of clothes of accused, seizure panchnama of clothes of victim, letter to Chief Officer, birth certificate, letter to Medical Officer, Medical certificate.

B. Defence :

Sr. No.	Exhibit	Description
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C. Court Exhibits :

Sr. No.	Exhibit	Description
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D. Material Objects:

Sr. No.	Material Object Number	Description
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JUDGMENT

(Delivered on this 7th day of May, 2026)

1] Accused persons are facing trial for the offences punishable under Sections 376 r/w 375(5), 376(3) r/w 34, 376-D and 506 of the Indian Penal Code [for short “the IPC”] and Sections 4,8,17 of the Protection of Children from Sexual Offences Act, 2012 [for short “the POCSO Act”].

2] Prosecution case, in short, is as under;

Informant is the resident of Kumbefal, Tq. Dist. Buldhana. Victim aged about 13 years is her daughter and learning in 7th standard at Buldhana. But, due to Corona, there was lock-down and therefore, victim was residing with her grand-mother. Informant has purchased land from one Shivilal Kalu Parmeshwar in Gat No.23 situated in Kardi Shiwar and said land was given into her possession by Land Revenue Officer under the protection of Police Station, Dhad. On 25.3.2019, victim along with her grand-mother had gone to the field. When grand-mother of victim went to fetch water on well in nearby field, at that time, all accused persons came in the field of informant. Accused Shobhabai said “ ही गणेशची मुलगी आहे, पकडा हिला ”. Thereupon, accused Motilal, Deepak and Kiran caught hold victim and made her fall and by lifting her clothes up, pressed her chest. Accused Deepak inserted his finger into vagina of victim. At that time, victim raised shouts and after hearing her shouts, grand-mother of victim rushed there and rescued her from the clutches of accused. At that time, accused persons threatened grand-

mother of victim that they would see her and would kill her. Thereafter, informant went to the police station and lodged report.

3] On the basis of report lodged by informant, Crime No. 64/2021 for the offences punishable under Sections 376 r/w 375(5), 376(3) r/w 34, 376-D and 506 of the IPC and Sections 4,8,17 of the POCSO Act came to be registered against the accused at Police Station, Dhad. During the course of investigation, Investigating Officer visited the spot and prepared spot panchanama. Accused came to be arrested. He seized clothes of accused persons under seizure panchnama. He also seized clothes of victim under seizure panchnama. He collected birth certificate of victim. He sent victim for medical examination and collected her medical certificate. He got recorded statements of victim and other witnesses under Section 164 of Cr.P.C. He recorded statement of witnesses. During investigation, having found ample evidence against accused, Investigating Officer filed charge-sheet before this Court.

4] My learned predecessor framed charge against accused persons for the offences punishable under Sections 376 r/w 375(5), 376(3) r/w 34, 376-D and 506 of the IPC and Sections 4,8,17 of the POCSO Act vide Exh.37. Contents of charge were read over and explained to accused in vernacular to which accused pleaded not guilty and claimed to be tried. Defence of accused as gathered from the statement recorded under Section 351 of Bharatiya Nagarik

Suraksha Sanhita, 2023 (S.313 of Cr.P.C.) and the suggestions to the prosecution witnesses is of total denial.

5] Heard learned APP Smt.Saoji-Deshpande for the prosecution and learned Counsel Shri Meher for accused persons.

6] Considering the case of prosecution, evidence on record and defence of accused, following points arise for my determination. The points and my findings thereon for the reasons here-in-after are as under;

Sr. No.	Points	Findings
1]	Does the prosecution prove that on 25.3.2021 at about 12.00 p.m. at village Kardi shiwar, Gat No.23, accused No.3 intentionally had inserted his finger in vagina of minor victim who was hardly 13 years old and committed rape on victim and accused Nos.2 and 4 in furtherance of their common intention, had abetted for committing such rape on minor victim and by instigating accused No.3 Deepak and thereby committed an offence punishable under Section 376 r/w Section 375(5) r/w Section 34 of the Indian Penal Code ?	In the negative.
2]	Does it further prove that on the same date, time and place, accused No.3 committed rape on victim, a minor girl aged about 13 years and remaining accused Nos. 1, 2 and 4 abetted and	

	instigated accused No.3 Deepak for committing rape on minor victim and thereby committed an offence punishable under Section 376(3) r/w Section 34 of the Indian Penal Code ?	In the negative.
3]	Does it further prove that on the same date, time and place, accused Nos.1, 3 and 4 committed gang rape on victim, a minor girl aged about 13 years and accused No.2 abetted and instigated remaining accused for being committed rape on minor victim and thereby committed an offence punishable under Section 376(D) of the Indian Penal Code ?	In the negative.
4]	Does it further prove that on the same date, time and place, all accused, in furtherance of their common intention, committed criminal intimidation by threatening to the mother-in-law of first informant about to kill her with intent to cause alarm to her, and thereby committed an offence punishable under Section 506 of the Indian Penal Code ?	In the negative.
5]	Does it further prove that on the same date, time and place, accused No.3 committed sexual penetrative assault on minor victim and remaining accused abetted him while committing such crime and thereby committed an offence punishable under Section 4 of the POCSO Act, 2012 ?	In the negative.
6]	Does it further prove that on the same date, time and place, accused No.3 committed sexual assault on minor	

	victim with sexual intent and remaining accused abetted him while committing such crime and thereby committed an offence punishable under Section 8 of the POCSO Act,2012 ?	In the negative.
7]	Does it further prove that on the same date, time and place, accused Nos.1,2 and 4 abetted and instigated accused No.3 for committing rape on minor victim, and thereby committed an offence punishable under Section 17 of the POCSO Act,2012 ?	In the negative.
8]	What order ?	Accused are acquitted as per final order.

REASONS

7] According to prosecution, at the relevant time, accused persons in furtherance of their common intention, committed penetrative sexual assault upon minor victim girl and committed criminal intimidation by threatening her grand-mother.

8] In order to strengthen the aforesaid charges, prosecution has examined in all five witnesses. Evidence of PW 1 informant Rohini Ganesh Aghav is at Exh.80, evidence of PW 2 victim is at Exh.86, evidence of PW 3 Raju Sahebrao Suradkar is at Exh.89, evidence of PW 4 Baburao Nathu Hudekar is at Exh.92 and evidence of PW 5 Investigating Officer PI Nilesh Kacharu Upsunde is at Exh.100. Prosecution closed its evidence by filing pursis Exh.114.

9] Defence side did not adduce evidence.

AS TO POINTS NO. 1 TO 7

10] All the points are interlinked with each other, hence taken together for decision.

11] PW 1 Rohini Ganesh Aghav is the informant. She deposed that victim is her daughter. She deposed that she does not know accused. She also deposed that she does not know anything about the incident. She denied that on 25.3.2021, her daughter victim along with her grand-mother had gone to the field. She denied that at that time, accused persons rushed on the person of victim, made her fall, removed her clothes and pressed her chest. She also denied that accused Deepak inserted his finger into the vagina of victim. She denied that after hearing shouts of victim, her grand-mother rescued her from the clutches of accused. She denied that accused persons threatened grand-mother of victim. PW 1 being informant is the star witness of this case. But she turned against the prosecution. Even after cross-examination by the prosecution at length, she has not supported the prosecution story in any way. The witness denied the contents of portion mark "A" of her statement. She also denied that she stated the said contents to the police. However, she admitted her signature on the report and printed FIR, but flatly denied its contents.

12] PW 2 is the victim. But, she also denied the entire incident. She denied that on the day of incident, she had gone to the field along with her grand-mother. She also denied that when

her grand-mother had gone in the nearby field to fetch water, at that time, accused persons came there and by lifting her clothes up, pressed her chest. She denied that accused Deepak inserted his finger into her vagina. She denied that after hearing her shouts, her grand-mother rushed there and accused persons threatened her to kill. PW 2 being victim is also the star witness of this case. But she turned against the prosecution. Even after cross-examination by the prosecution at length, she has not supported the prosecution story in any way. The witness denied the contents of portion mark "A" of her statement. She also denied that she stated the said contents to the police.

13] PW 3 Raju Sahebrao Bawaskar is the panch witness. He deposed that on 26.3.2021, he along with police went on the spot of incident and police prepared spot panchnama in his presence and obtained his signature thereon. Though prosecution succeeded in proving spot panchnama [Exh.90], but main witness i.e. PW 1 informant and PW 2 victim have not supported to the case of prosecution. Therefore, proving of spot panchnama is not sufficient to prove the case of prosecution.

14] PW 4 Baburao Nathurao Hudekar was the station diary in-charge of police station, Dhad. He deposed that on 26.3.2021, informant had come to the police station and lodged report [Exh.93] and on the basis of said report, he registered offence against accused persons vide FIR [Exh.94]. He deposed that

thereafter, further investigation was handed over to PI Upsunde. Though this witness has proved report and FIR, but as stated earlier, PW 1 informant has denied contents of report [Exh.93]. Therefore, evidence of this witness is of no use.

15] The prosecution thereafter examined Investigating Officer PW 5 PI Nilesh Kacharu Upsunde. He deposed that he received investigation of Crime No. 64/2021 along with report, FIR, and other documents. Thereafter, he conducted spot panchanama [Exh.103] in presence of two panchas and then recorded statements of witnesses. He arrested accused. He seized clothes of accused under seizure panchnama. He also seized clothes of victim under seizure panchnama. He sent victim for medical examination and collected her medical report. He got recorded statements of victim and other witnesses under Section 164 of Cr.P.C. However, unless and until, there is material evidence on record, this evidence does not help the prosecution to prove its case. The fact remains that the material witnesses i.e. PW 1 informant and PW 2 victim have not supported the prosecution story. Thus, the evidence of PW 4 PI Nilesh Kacharu Upsunde is formal in nature.

16] Considering the above discussion, in absence of any corroboration to the prosecution by the prime witnesses, I hold that prosecution failed to prove any of the charge levelled against accused. Hence, the accused persons are entitled for the benefit of doubt. Accordingly, Points No.1 to 7 are answered in the negative.

17] In the result, following order is passed;

ORDER

- 1] Accused No.1 Motilal Kalu Parmeshwar, accused No.2 Shobhabai @ Subha Motilal Parmeshwar, accused No.3 Deepak Motilal Parmeshwar and accused No.4 Kiran Motilal Parmeshwar are acquitted of the offences punishable under Sections 376 r/w Section 375(5), 376(3) r/w Section 34, 376-D and 506 of the Indian Penal Code and Sections 4,8,17 of the POCSO Act, 2012, vide Section 258(1) of The Bharatiya Nagarik Suraksha Sanhita [Section 235(1) of Cr.P.C.].
- 2] Their bail bonds stand cancelled.
- 3] Seized muddemal properties being worthless, be destroyed after appeal period is over
- 4] Accused shall furnish P.B. & S.B. of 15,000/- (Rs. Fifteen Thousand only) each with one solvent surety each of the like amount as per Section 481 of The Bharatiya Nagarik Suraksha Sanhita [Section 437-A of Cr.P.C.].

[Judgment is dictated and pronounced in open Court.]

Buldhana
Date: 7.5.2026

(Shaikh Akbar Shaikh Jafar)
Judge, Special Court,
Buldhana