

MHGA010011452019



Presented on : 17.09.2019

Registered on : 17.09.2019

Decided on : 17.07.2026

Duration : 06Y 10M 00D

Exh. No. 38

**IN THE COURT OF SESSIONS JUDGE AT GADCHIROLI
(Presided over by A. L. Tikle)**

SPECIAL CASE No.55/2019

(CNR NO.-MHGA010011452019)

The State of Maharashtra

Through the Police Station Officer,

Police Station, Dhanora,

District : Gadchiroli

... Prosecution**Versus**

XXXXXXXXXXXXXXXXXXXXX

Age : 33 Years, Occu : Service,

Resident of Aswalpur,

Tahsil : Dhanora, District : Gadchiroli

... Accused-----
Mr. S. U. Kumbhare, the learned A.P.P for the prosecution.Mr. A. M. Khadatkhar, the learned counsel for the accused.
-----**JUDGMENT****(Delivered on 17th July, 2026)****(Details of FIR/Crime and Police Station)**

F.I.R.No.61/20219, U/s 376(2)(n) of the Indian Penal Code, 1860, Section 4, 6, 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) registered with the Police Station, Dhanora.

Prosecution

State of Maharashtra through the Police Station, Dhanora.

Complainant :

The victim

Represented by	Shri S. U. Kumbhare, the Additional Public Prosecutor
ACCUSED :	XXXXXXXXXXXXXXXXXX
Represented by	Shri Avinash Khadatkhar, Advocate for the Accused

“Part B”

Date of offence	26.07.2016 to 26.03.2019
Date of FIR	25.07.2019
Date of Charge-sheet	17.09.2019
Date of Framing of Charges	08.08.2025
Date of commencement of evidence	08.05.2026
Date on which judgment is reserved	---
Date of the Judgment	17.07.2026
Date of the Sentencing Order, if any	Not applicable

Details of Accused :

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, Cr.PC.
1	XXXXXX XXXX	25.7.19	27.9.19	Sec.376(2) (n) I.P.C. Sec.4,6,8 of POCSO Act	Acquitted	-----	Non applicable.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution :**

<u>Sr.No.</u>	<u>Exhibit No.</u>	<u>Description</u>
1.	28	Oral complaint dated 25.07.2019
2.	29	Printed FIR dated 25.07.2019

B. Defence (Admitted) :

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
1.	30	Crime Details Form
2.	31	Birth Certificate of the victim
3.	32	Medico Legal Examination Report of Sexual Violence of the victim
4.	33	D.N.A. Report
5.	34	C.A. Report

C. Court Exhibits :

<u>Sr. No.</u>	<u>Exhibit Number</u>	<u>Description</u>
	NIL	NIL

D. Material Objects :

<u>Sr. No.</u>	<u>Material Object Number</u>	<u>Description</u>
	NIL	NIL

The accused has faced the trial for the offences punishable under Sections 376(2)(n) of the Indian Penal Code, 1860 (IPC) and Sections 4, 6, 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

FIR, INVESTIGATION AND THE PROSECUTION CASE :-

2] An oral report dated 25.07.2019 lodged by one victim led to registration of Crime No.61/2019 with the Police Station, Dhanora for the above offences. The said oral report was treated as a First Information Report (FIR). The victim complained that despite having sexual relations with the victim and even customary marriage with her, the accused ignored her and even deserted her. There was a love affair between them for a period of five years preceeding the

FIR. The marriage took place due to intervention of the local panchayat. The victim also lived with the accused for few months. At the time of the FIR, the victim was 19 years of age and carrying a pregnancy of 8 months. But as the sexual activities were going on for a period of 5 years, the crime of above was registered including the offences under POCSO.

3] On registration of the crime, investigation was entrusted to then Assistant Police Inspector (API) Smt. Anjali Rajput, (Investigating Officer (IO)). The I.O. forwarded the victim for medical examination, as she was carrying the pregnancy. The I.O. also drew a panchanama of scene of offence. The record pertaining to the birth of the victim was also collected. As the accused was working with the Department of Forest, he was arrested by taking a requisite permission. Then the I.O. recorded the statements of the witnesses. The samples were collected during the medical examination of the victim as well as the accused, who was also forwarded for his medical examination, were then forwarded for their Chemical Analysis. It was done even to have a DNA profile of the child, who was born after one month of the FIR. At the conclusion of the investigation, the I.O. found with the substantial evidence against the accused. Hence, she filed a charge-sheet under Section 173 of the Code of Criminal Procedure, 1979 (Cr.PC) read with Section 33 of the POCSO, in this Court, being a Special Court under the POCSO.

4] Before framing of the charges, the prosecution opened its case. The oral report unfold the prosecution case as below.

5] The accused is from the native village of the victim. At that time, he was working as a Forest Guard. A friendship developed between the accused and the victim, which gradually converted into a love affair. The accused giving the allurements of marriage had sexual intercourse with the victim starting from the year 2016. As a fall of the said sexual activity, the victim became pregnant. Then as per the local customs and traditions prevailing in those times, a meeting took place at the village presided over by the panchayats on 25.02.2019. In that meeting, the accused accepted that he would marry the victim, then as per the local customs and traditions, the victim started residing with the accused at his house. But then the accused started ignoring the victim. Often he used to remain away from the house under the disguise to attend his duties. When the pregnancy of the victim was 7 months, she asked the accused for his Aadhar card and resident certificate to get the benefits of the government schemes. The accused ignored the same. Again one meeting took place at the village. As the accused was reluctant to perform his conjugal duties, the panchas advised the victim to lodge a police complaint. At the Police Station, the victim learnt that on 19.02.2019, the accused had already performed a marriage with one another girl.

6] The other prosecution material is in support of the above noted prosecution case. As such the prosecution has come with the case that the accused by giving the allurements of marriage, had sexual intercourse with the victim repeatedly and made her pregnant, even though, at

that time, she was minor. Consequently, the accused committed the above offences.

THE CHARGES AND DEFENCE :-

7] On the basis of the rival submissions and perusal of the charge-sheet and the other investigation papers, my learned predecessor was pleased to frame the charges against the accused for the above offences below Exh.23. By his plea (Exh.24), the accused denied the charges and claimed to be tried when those were explained to him in Marathi. Thus, the trial was necessitated.

THE CHARGES AND DEFENCE :-

8] Only, the prosecution has adduced the evidence. From the tenor of the cross-examination of the prosecution witnesses, and the statement of the accused recorded under Section 313 of Cr.P.C. at Exh.37, the defence of the accused as of total denial and false implication becomes apparent. It has been tried to be suggested that the victim was major and a consenting party. The pregnancy was a follow up of the marital relations between the accused and the victim.

9] I have heard Mr. S. U. Kumbhare, the learned Additional Public Prosecutor for the prosecution and Mr. A.M. Khadatkhar, the learned counsel for the accused at length, in support of their rival contentions and submissions.

10] On the basis of the above and perusal of the material placed on the record by the prosecution, the following points for determination arise, to which I have given the findings for the reasons thereto.

Sr. No.	Points	Findings
1	Whether the prosecution has proved that during the period of 26.07.2016 to 26.03.2019 at mouza Aswalpar, Tahsil – Dhanora, District- Gadchiroli, the accused committed rape on the victim minor girl, and thereby committed an offence punishable under section 376(2)(n) of the Indian Penal Code, 1860 ?	No
2	Whether the prosecution has proved that on the above said date, time and place, the accused committed penetrative sexual assault and aggravated penetrative sexual assault on a minor girl by making her pregnant also, and thereby committed the offences punishable under Sections 4, 6, 8 of the Protection of Children From Sexual Offences Act, 2012 ?	No
3	What order ? Accused is acquitted	

REASONS**ABOUT EVIDENCE :****“Part C”****LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

Prosecution Witnesses		
Rank of the witness	Name	Nature of Evidence
PW1	The Victim (Exh.27)	The informant/victim
PW2	Assistant Commissioner, Anjali Mewasing Rajput (Exh.35)	Investigating Officer

Defence Witnesses, if any		
Rank of the witness	Name	Nature of Evidence
NIL	NIL	NIL

Court Witnesses, if any		
Rank of the witness	Name	Nature of Evidence
NIL	NIL	NIL

11] As the evidence is very short and for the discussion below, I have not made marshaling of the facts and the appreciation of the evidence, as two distinct stages. Even for the above reason, all the points are discussed and decided together.

AS TO ALL POINTS :

12] As the prosecution is for the offences as per the charges which includes the offences under the POCSO, the prosecution is obliged to prove that at the time of the first incident of sexual intercourse, the victim was minor. If that is proved, the prosecution will be armed with the presumptions under Section 29 and 30 of the POCSO. If that is not proved, the prosecution must prove that the incidents of sexual intercourse were against will and without consent of the victim. If the above conditions are not proved, the prosecution must fail.

13] Now, let me begin with the evidence of the victim. The victim has not supported the prosecution in a

calculated way. Primarily, she has withheld the evidence about her date of birth and any sexual activity during her minor age. She has stated that for a period of 5 years, prior to 2019, there was a love affair between the accused and the victim. Then she performed a marriage with the accused as per the tribal customs and traditions. She even started residing at the house of the accused. Thereafter, the accused started working as a Forest Guard. At that time, the victim was carrying the pregnancy of 2 months. Then the accused started ignoring her. Then she has deposed how she lodged the oral report (Exh.28) and FIR (Exh.29). The prosecution could not elicit any fatal admission, even though, the victim was cross-examined. It is apparent that she has deliberately withheld her evidence about date of birth.

14] In the cross-examination, the victim has admitted that after taking customary divorce from the accused, subsequently, she married with one another person and became a mother of two more children.

15] As such, it is apparent that there is nothing in the evidence of the victim. The sexual activities, as per the evidence of the victim started after her marriage apparently when she became major. Thus the victim has shattered the case of the prosecution for the offences under the POCSO and even 376 of IPC also.

16] The accused has admitted the birth certificate (Exh.31) issued on 26.06.2010. As per that certificate, the victim was born on 01.11.2000. As per the admitted Medico-legal Examination Report of Sexual Violence (Exh.32)

prepared on 26.07.2019, the victim was carrying a pregnancy and her age was recorded as 19 years. Hence, the intercourse, which became the cause of the pregnancy was definitely after 18 years of age. In the FIR also, the victim mentioned her age as 19 years. At the time of her marriage i.e. probably on 25.02.2019, she was carrying a pregnancy of two months. At the time of the FIR dated 25.07.2019, the pregnancy was of 8 months. Meaning thereby, the intercourse, which became the cause of the pregnancy was definitely after attaining the age of 18 years by the victim.

17] Thus, in view of the above discussion, as the victim has not stated about any intercourse during her minor age in her substantive evidence, there is nothing against the accused in the above evidence to convict him. The I.O. (PW-2) has provided evidence only about the investigation part. The accused has not disputed that the child, to whom the victim gave birth, was begated by him. Even as per the reports of the Chemical Analysis (Exh.33 & 34), the victim and the accused have been concluded as the biological parents of their daughter.

18] The fact remains that as the victim has not provided any evidence about any sexual activities during her minor age. The sexual activities after attaining her majority, were consensual. Then the accused cannot be convicted. Accordingly, I answer both the points in negative.

19] The accused should be acquitted, as discussed above. Hence, any further comment or remark about the

investigation or the prosecution is not warranted. In view of the above discussion, I proceed to pass the following order.

ORDER

- 1] Accused ~~XXXX XXXX XXXX~~ is hereby acquitted under Section 235 of the Code of Criminal Procedure, 1973 of the offences punishable under Section 376(2)(n) of the Indian Penal Code, 1860, and Sections 4, 6 & 8 of the Protection of Children from Sexual Offences Act, 2012.
- 2] The bail bonds of the accused stand cancelled.
- 3] No order as regards the muddemal property.
- 8] The accused to furnish P.R. Bond of Rs.15,000/- with one surety of like amount under Section 437-A of the Code of Criminal Procedure, 1973 within 7 days from today.

(Dictated and pronounced in open Court).

Place : Gadchiroli
Date : 17.07.2026

(A. L. Tikle)
Sessions Judge, Gadchiroli