

MHGO010002852025



Presented on : 24.02.2025
Registered on : 24.02.2025
Decided on : 28.07.2026
Duration : 01Y. 05M. 05D.

IN THE COURT OF SESSIONS JUDGE AND SPECIAL JUDGE,
GONDIA
(Presided over by K. N. Gautam)

Date of Judgment : 28.07.2026

SPECIAL (ATROCITY) CASE NO.26/2025

Exh.No.

(Crime No.466/2024 of Police Station, Duggipar)

Under Sections 70, 75(2), 137(2) and 351(2) of the Bhartiya Nyaya Sanhita and Sections 3(1)(w)(i)(ii) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Prosecution

The State of Maharashtra,
Through Officer In-charge of Police Station,
Duggipar, Tah. Sadak Arjuni, Dist. Gondia.

Represented by

Mr. K. D. Pardhi, APP for the State.

Accused

1. Chhatrapal s/o Vilas Chaudhari,
Aged about 26 years, Occu.: Student,
R/o Murpar/Ram, Post- Pandhari,
Tah. Sadak Arjuni, Dist. Gondia.
2. Pranay s/o Deochand Chindhalore,
Aged about 26 years, Occu.: Student,
R/o Pandhari, Tah. Sadak Arjuni, Dist. Gondia.

Represented by

Mr. R. N. Bhajipale, Adv. for accused No.1.
Mr. V. N. Barapatre, Adv. for accused No.2.

Date of offence	:	16/12/2024
Date of FIR	:	23/12/2024
Date of Charge-sheet	:	26/02/2025

Date of framing Charge	:	17/09/2025
Date of commencement of evidence	:	28/01/2026
Date on which judgment is reserved	:	28/07/2026
Date of Judgment	:	28/07/2026
Date of sentencing order if any	:	--

Accused Details :

Rank of the accused	Name of Accused	Date of Arrest	Date of release on bail	Offence 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.	Chhatrapal s/o Vilas Chaudhari,	23.12.2024	Under Trial	Sec. 70, 75(2), 137(2), 351(2) of BNS & Sec. 3(1)(w)(i) (ii), 3(2)(v) of SC & ST (POA) Act.	Acquitted	--	Under Trial
2.	Pranay s/o Deochand Chindhalore,	23.12.2024	Under Trial	Sec. 70, 75(2), 137(2), 351(2) of BNS & Sec. 3(1)(w)(i) (ii), 3(2)(v) of SC & ST (POA) Act.	Acquitted	--	Under Trial

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A- Prosecution :-

Rank	Name	Nature of Evidence	Exh.
PW-1	Ranjana Uttam Kotangale	Mother/ Informant.	31
PW-2	Ranju Kamal Dongre	Special Teacher	37
PW-3	Victim (as per charge-sheet)	Victim	38

PW-4	Ruchita Uttam Kotangale	Sister	40
PW-5	Prabha Ekadas Kotangale	Grand-mother	42
PW-6	Dr. Deepak Istari Dhumankhede	M.O.	45
PW-7	Dr. Akansha Laldas Gharde	M.O.	51
PW-8	Father of victim (as per charge-sheet)	Father	57
PW-9	API Rupali Bhimrao Pawar	I.O.	61
PW-10	Dr. Sneha Manu Sharma	Psychiatric	69
PW-11	PC Ganesh Vitthal Pawar	Carrier	73
PW-12	SDPO Vivek Haridas Patil	I.O.	80

B - Defence Witness, if any : -- Nil.

C - Court Witness if any -- Nil.

LIST OF PROSECUTION/DEFENCE/COURT EXIHIBITS

A- Prosecution :-

Sr. No.	Exhibit Number	Description
1.	17	Charge of accused.
2.	32	Police report.
3.	33	Printed FIR
4.	34	Statement of mother of victim u/s 183 of BNS.
5.	33	Statement of victim u/s 183 of BNS.
6.	41	Statement of Ruchita Kotangale u/s 183 of BNS.
7.	43	Statement of Prabha Kotangale u/s 183 of BNS.
8.	46	Letter issued to Medical Officer, Rural Hospital, Sadak Arjuni for medical examination of accused persons.
9.	47	Medical report of accused No.1.
10.	48, 50	Forms for forwarding biological samples.
11.	49	Medical report of accused No.2.

12.	52	Letter issued to BGW Hospital, Gondia for medical examination of victim.
13.	53	Medical report of victim.
14.	54, 70	MLC of victim.
15.	55	Form-II.
16.	56	Form-B.
17.	62, 65	Letter issued to Panchayat Samiti, Sadak Arjuni for providing special teacher.
18.	63	Letter issued to Government Medical College, Gondia to ascertain opinion about mental age of victim.
19.	64	Letter issued to API Rupali Pawar for recording statement of victim.
20.	71	Certificate of mental retardation of victim.
21.	72	Railway Concession certificate of victim.
22.	74	Duty certificate.
23.	75 to 78	Invoice challans.
24.	79	Letter issued to Forensic Science Laboratory, Nagpur.
25.	81, 83, 86 to 89	Seizure panchnamas.
26.	82, 85	Certificate of recording seizure panchnama in e-Sakshya.
27.	84	Spot panchnama.
28.	90	Property receipt.
29.	91	Letter issued to SDO, Arjuni/Morgaon for verification of caste certificate of victim.
30.	92	Letter sent by SDO, Arjuni/Morgaon regarding verification of caste certificate of victim.
31.	93	Letter issued to Judicial Magistrate, Sadak Arjuni for recording statements of victim and 3 witnesses

		u/s 183 of BNS.
32.	94	Letter issued to Superintendent of Police, Gondia for providing CDR & SDR of phone numbers of accused.
33.	95, 96	Arrest panchnamas.

B- Defence :- --- Nil.

J U D G M E N T

(Delivered on 28.07.2026)

The accused stand trial for the offences punishable under Sections 70, 75(2), 137(2) and 351(2) of the Bhartiya Nyaya Sanhita (hereinafter referred to as 'BNS' for the sake of brevity) and Sections 3(1)(w)(i)(ii) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as 'Atrocity Act' for the sake of brevity).

2. Brief story of the prosecution case is as under :

At the time of incident, the victim was residing with her parents, her elder sister and her grand-mother. The victim is intellectually disabled since childhood. She studied up to 10th Standard and belongs to *Mahar* caste, which came under Scheduled Castes. The elder sister of the victim was studying at Nagpur and as her health was not good hence, on 16.12.2024 the parents of victim went to meet her at Nagpur. They returned home on same day at about 10:30 p.m. On 22.12.2024 the victim was irritating and when she was asked repeatedly as to what happened then she told to her mother that she was sitting in

front of shop where 2 persons came and said her “Tu Changli Diste”, kissed on her cheek, caught her hand and took her in their house. She said that those persons removed her clothes, touched on her breast and threatened her that not to tell about the incident to anybody, otherwise they will beat her. She has also told that those persons touched her vagina. The elder sister of the victim then shown the photograph of penis of man to the victim and asked her whether penis was inserted in her vagina and the victim answered in the affirmative. The mother of victim then came to know that sexual intercourse took place with the victim. The victim told that she having pain and burning sensation in her vagina. On repeated inquiry and insistence, the victim told the name of those persons as brother of *Pinki* and *Sattu*. The mother of victim then came to know that brother of *Pinki* is accused No.2 and *Sattu* is accused No.1. Both of them belong to other backward class and they were knowing that the victim belongs to *Mahar* caste. The grand-mother of the victim told that on 16.12.2024 it was market day, hence she went to attend market at 4:00 p.m. and returned home at 5:30 p.m. She told that at that time the victim was silent. The mother of the victim i.e. informant then went to Police Station, Duggipar on 23.12.2024 and lodged the report of incident. API Rupali Pawar registered Crime No. 466/2024 on basis of report lodged by the mother of the victim. The investigation was done by SDPO Vivek Patil.

3. API Rupali Pawar recorded statement of victim with the help of Special Teacher for intellectually disabled person. She sent the victim for medical examination. She issued letter to Government Medical College, Gondia to ascertain opinion about mental age of the victim. Thereafter, SDPO Vivek Patil seized the clothes and biological samples of the victim. He visited the spot and conducted spot panchnama. He arrested the accused persons and sent them for medical examination. He seized the clothes and biological samples of the accused persons. He deposited the seized property in property room. He sent the seized property to Forensic Science Laboratory, Nagpur for analysis. As the victim belonging to *Mahar* Caste, he issued letter to Sub Divisional Officer, Arjuni/Morgaon for verification of caste certificate of the victim. He issued letter to Judicial Magistrate, Sadak Arjuni for recording statements of the victim and 3 witnesses as per Section 183 of BNSS. He recorded statements of the witnesses as per their say. He issued letter to Superintendent of Police, Gondia for obtaining CDR and SDR of phone numbers of the accused persons. At the end of investigation, he submitted charge-sheet against the accused persons in Special Court, Gondia.

4. The charge was framed by me vide Exh.17 on 17.09.2025 against the accused in respect of offences punishable under Sections 70, 75(2), 137(2) and 351(2) of the Bhartiya Nyaya Sanhita and Sections 3(1)(w)(i)(ii) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act. I explained the contents thereof to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. The defence of the accused is of total denial and false implication.

5. Heard learned APP Shri. K. D. Pardhi for the State and learned advocate Mr. R. N. Bhajipale for accused No.1 and Mr. V. N. Barapatre for accused No.2. On hearing both the sides, following points arise for my determination with my findings thereon for reasons to follow:-

POINTS

FINDINGS

1. Whether prosecution prove that on 16.12.2024 at about 4:00 to 5:00 p.m. at mouza Pandhari Gongle, the accused in furtherance of their common intention committed gang rape on victim woman? ... **Not Proved.**
2. Whether prosecution further prove that on the same date, time and place, accused in furtherance of their common intention committed physical contact and advances involving unwelcome and explicit sexual overtures towards victim woman? ... **Not proved.**
3. Whether prosecution further prove that on the same date, time and place, accused in furtherance of their common intention kidnapped the victim woman out of keeping of her lawful guardianship? ... **Not proved.**
4. Whether prosecution further prove that on the same date, time and place, accused in furtherance of their common

intention committed the offence of criminal intimidation against the victim woman? ... **Not proved.**

5. Whether prosecution further prove that on the same date, time and place, accused not being the members of Scheduled Caste and Scheduled Tribes and knowing that the victim woman belongs to *Mahar* caste, which came under Scheduled Caste intentionally touched her knowing that such touching is of sexual nature and done act of kissing of her cheek which is an act of sexual nature? ... **Not proved.**

6. Whether prosecution further prove that on the same date, time and place, accused not being the member of Scheduled Caste and Scheduled Tribes and knowing that the victim belongs to *Mahar* caste, which came under Scheduled Caste committed the offence mentioned in schedule i.e. of sexual harassment as well as the offences punishable with imprisonment for a term of 10 years or more against her? ... **Not proved.**

7. What order? **As per final order.**

REASONS

AS TO ALL POINTS :

6. In order to prove its case, the prosecution has examined 12 witnesses and closed its evidence by filing pursis at Exh. 97. The statements of the accused are recorded as per section 351 of BNSS at Exhs.98 and 99.

7. It is disclosed in the evidence of victim (PW-3) that she was sitting out of her house and at that time brother of *Pinki* and *Sattu* said her that “*Tu Changli Diste*”, kissed her cheek and took her to their house by catching her hands. They touched her breast, removed her clothes and touched her from ahead and on her back. They have also pressed her mouth and asked her to keep quiet. They said her not to tell to her mother, otherwise they will beat her.

8. The version of the victim is supported by her mother i.e. informant (PW-2). It is revealed from her evidence that the incident was happened on 16.12.2024 and on that day she along with her husband went to meet their elder daughter at Nagpur and the victim along with her mother-in-law were at home. The victim is intellectually disabled since birth and educated up to 10th Standard. She returned home with her husband and elder daughter on 16.12.2024 at 10:30 p.m. On 17.12.2024 the victim was irritating and frightening and on 22.12.2024 when she asked the victim as to what happened, then she said that she was sitting in front of shop and at that time Pranay Deochand Chindhalore and Chhatrapal Chaudhari came there and said to her “*Tu Changli Sundar Diste*” and both of them took kiss of her cheek. The victim also told her that they took her by catching her hand to the house of Pranay Chindhalore, closed the door of the house, both of them removed her clothes as well as their own clothes

and caused her to sleep on bed. The victim also told that both of them touched her breast and committed sexual intercourse with her, due to which she having pain in her vagina and there is burning sensation in her vagina. The victim told her that thereafter, they left her in front of gate of her house. The victim told her that both of them said to her that if she told about the incident to her mother then they will kill her. Her elder daughter shown photograph of penis of male on mobile to the victim and asked her whether such penis was inserted in her vagina and she replied in affirmative. Then she lodged the report of incident with police on 23.12.2024. She duly proved the report lodged by her at Exh.32.

9. The prosecution has examined sister of the victim (PW-4) to corroborate the version of the victim. It is disclosed from her evidence that the incident was happened on 16.12.2024 and on that day her parents came to fetch her at Nagpur as her health was not good. They reached their village on same day at about 3:30 p.m. On 22.12.2024 the victim was silent and irritating, so she and her mother asked her as to what happened. The victim told them that she was sitting in front of shop where the brother of *Pinki* and *Sattu* came and said her that you looking beautiful and kissed her cheek. She told that they took her to the house of *Pinki*, removed her clothes, touched her breast and threatened her not to tell to anybody, otherwise they will kill her and also touched her vagina. Then she shown photograph of

penis to the victim and asked her whether they inserted penis in her vagina and the victim replied yes. The victim told them that there is pain in her vagina and having burning sensation. Then her mother called both the accused to her home and asked them whether they have done such act and they declined. Thereafter, her mother asked the victim that whether the accused No.1 has done illicit act with her and the victim replied in affirmative. Then her mother lodged the report.

10. The prosecution has also examined the grand-mother of the victim (PW-5) to corroborate the version of the victim. It is disclosed in her evidence that victim is intellectually disabled since birth and at the time of incident she and victim were at home. Her son and daughter-in-law went to Nagpur to fetch their elder daughter. She asked the victim to sit in porch and went to market at about 4:30 p.m. and returned home at about 6:00 to 6:30 p.m. and at that time victim was sitting on Sofa set in porch. The victim told to her mother that she was sitting in front of shop where 2 persons came and took her with them to their house. The victim told that they removed her clothes, kissed her, touched her breast and committed rape on her. Then the report was lodged.

11. The prosecution has examined father of the victim (PW-8) to prove its case. It is divulged from his evidence that he came to know about the incident on 22.12.2024 from his wife,

who told that rape was committed on victim by the accused in the house of accused No.2. She told the name of accused as brother of *Pinki* and *Sattu* and thereafter, report was lodged.

12. The prosecution relied upon medical evidence to support its case. In this regard the prosecution has examined Medical Officer Dr. Sneha Sharma (PW-10). It is disclosed in her evidence that in the year 2017 she was posted at Government Medical College, Gondia as Psychiatric and she examined the victim in view of letter received from Police Station, Duggipar to ascertain her mental age. On examination she found that IQ of victim is 50.1% mild and it correspond to mind mental retardation. She was the member of Medical Board and examined her with other members of the Board in March, 2018 and found that victim having mild 50% mental retardation. She has duly proved the certificate of Mental Retardation for government benefits of victim at Exh.71 and concession certificate for mentally regarded of victim at Exh.72.

13. The prosecution has also examined Dr. Akansha Gharde (PW-7). It is revealed from her evidence that she was posted as Gynecologist in BGW Hospital, Gondia in the year 2024 and the victim was brought with letter dated 23.12.2024 from Police Station, Duggipar for medical examination by LPC Smita Padole with mother of victim. She had examined the victim with the consent of her mother. The mother of the victim told history

that on 16.12.2024 at about 4:00 to 5:00 p.m. victim was alone at home and the accused persons took her to their house, kissed her, grabbed her by hand and done sexual intercourse with her. The mother of the victim also told that the victim told about the incident on 22.12.2024. On examination it was found that hymen perineum of the victim was torn and she having intellectually disability of 50%. She collected the biological samples of the victim, sealed and labeled those samples and handed over to LPC Smita Padole. She duly proved the medical report of the victim at Exh.53.

14. Similarly, the prosecution has examined Dr. Deepak Dhumankhede (PW-6). It is revealed from his evidence that in the year 2024 he was posted as Medical Officer at Rural Hospital, Sadak Arjuni. On 25.12.2024 he received letter from SDPO, Deori for medical examination of the accused persons. He examined the accused persons and found no injury on their person. He collected biological samples of the accused persons, sealed the same and handed over to NPC Neware who brought the accused for medical examination. He duly proved the medical reports of the accused persons at Exh.47 and 49.

15. The learned Assistant Public Prosecutor submitted that from the versions of the victim, her parents, her sister and her grand-mother, it is sufficient to conclude that rape had been committed on the victim and she was threatened by the accused

not to tell incident to anybody. According to him, the parents in ordinary circumstances would not have involved their daughter, who is intellectually disabled in such incident. He contended that testimonies of the prosecution witnesses are cogent, concrete and reliable. He contended that in this case the hymen perineum of the victim was torn, which is clear indication that she was subjected to forcible sexual intercourse. He has specifically contended that the evidence of prosecution witnesses inspires confidence and the accused persons may be convicted for the offences charged against them.

16. On the other hand, the learned counsels for the accused pleaded that the parents of the victim cooked-up false story and falsely implicated the accused persons. They contended that the evidence on record is not sufficient to prove the occurrence of the alleged incident. According to them the victim has not narrated the alleged incident to her parents since happening of incident on 16.12.2024 till 22.12.2024 and thereafter to police from 23.12.2024 when FIR was lodged till 27.12.2024 and her statement as per Section 183 of BNSS was recorded on 02.01.2025 though special teacher was available during said period and it shows that no incident was happened with the victim and hence, the victim was not ready to speak falsely. They have contended that the identification of accused persons is not established and the victim failed to identify the accused persons even in court as the perpetrators of the crime.

They have contended that medical officer has not noticed any injuries on the person of the victim. They contended that the incident was happened at about 4:00 to 5:00 p.m. on market day when allegedly the victim had been taken from her home to the house of accused No.2, but no independent witness is examined to prove that victim was with accused persons at the time of incident. They contended that there are material contradictions and omissions in the evidence of the prosecution witnesses and their versions not matched with the version of the victim in respect of material particulars of the incident, hence they are not reliable at all. They contended that there is unexplained delay in lodging FIR, which was lodged after due deliberation to implicate the accused. According to them all said inconsistencies creates doubt about happening of any such incident as alleged and material on record is not sufficient to prove the guilt of the accused persons, hence they may be acquitted.

17. In respect of submissions made by the learned counsels for the accused persons that the victim was not knowing the accused persons and they are falsely implicated, I found that the victim has not told to her parents, sister, grand-mother and police by stating names of the accused persons that they have committed illicit act with her. As per the contents of statement of victim recorded as per Section 183 of BNSS by the Judicial Magistrate at Exh.35 and considered as her examination-in-chief in view of provisions of Section 183(6)(b) of BNSS, she merely

stated that brother of *Pinki* and *Sattu* committed illicit act with her. There is absolutely no evidence brought on record to show that the accused persons are known as brother of *Pinki* and *Sattu* in their village. As per the evidence of mother of the victim i.e. informant (PW-1), the victim told to her that when she was sitting in front of shop at that time Pranay Deochand Chindhalore and Chhatrapal Chaudhari i.e. accused Nos.1 and 2 came and took her with them to the house of accused No.2. She has specifically deposed that she told the names of accused to the police while lodging report and recording her statement by police as well as while recording her statement by the Judicial Magistrate that persons by name Pranay and Chhatrapal came in front of shop where the victim was sitting and the victim told her the names Chhatrapal and Pranay of accused persons. However, in her police record at Exh.32 it is stated that the victim told her that brother of *Pinki* and *Sattu* came and informant came to know that brother of *Pinki* is accused No.2 and *Sattu* is accused No.1. She never stated in her report at Exh.32 that victim told the names of accused to her. API Rupali Pawar (PW-9), who recorded the report of the informant at Exh.32 has admitted in her evidence that while lodging report the informant never told that the victim told her the names Chhatrapal and Pranay. Similarly, the Investigating Officer SDPO Vilas Patil (PW-12) has admitted in his evidence that the mother of the victim never told while recording her statement that persons by names Chhatrapal

and Pranay came in front of shop where the victim was sitting. Moreover, in the statement of the mother of the victim recorded as per Section 183 of BNSS at Exh.34 the fact that the victim told the names of accused to her as Chhatrapal and Pranay is not mentioned. In fact, Ruchita (PW-4) the sister of the victim and father of the victim (PW-8) deposed that the victim told the names of the persons who committed offence against her as brother of *Pinki* and *Sattu*. The grand-mother of the victim namely Prabha (PW-5) deposed that victim told to her mother that 2 persons came and took her to their house. It is nowhere brought on record that name of sister of accused No.2 is *Pinki* and accused No.2 is known as *Sattu* and it is his pet-name, by examining the independent witnesses residing in the neighborhood or locality of the accused persons who knowing them. Moreover, the prosecution has not held test identification parade and even during recording of evidence of victim in court, the victim was not asked to identify the accused persons so as to make it clear that the accused No.2 is the brother of *Pinki* and accused No.1 is *Sattu* as stated by her to her mother and to prove that she is knowing them as brother of *Pinki* and *Sattu*. In fact, in her evidence the victim (PW-3) was when asked as to who came to her house, she answered as “brother of *Pinki*, two”. Hence, it cannot be said definitely that *Sattu* and brother of *Pinki* as addressed by the victim as perpetrators of crime against her are the accused persons. Thus, there is doubt about involvement

of accused in the offences alleged against them as their identity is not clearly established on record.

18. I have minutely gone through the evidence of the victim (PW-3). She has clearly denied the fact that she went with the brother of *Pinki* at any place. She has also admitted that her mother told her as what is to be stated in court. When the victim was asked that who came to her house, she replied that brother of *Pinki*, two. So, it is not clear from her evidence that the accused persons came to her house on the day of incident and took her to the house of accused No.2 as alleged.

19. Moreover, the victim was unable to give proper answers to the questions put to her during recording of her evidence through special teacher in respect of suggestions made on behalf of defence counsels. When the question put to the victim through special teacher that whether she narrated the incident before judicial magistrate as told by her mother, the victim answered the question asked to her in yes or no and unable to understand the suggestions put to her. Accordingly, the observation was made while recording her evidence. Similarly, when the victim was asked as to what incident happened, she told some facts and not the whole facts showing involvement of the accused in the incident alleged. Hence, her evidence is not helpful to prove the involvement of the accused in the incident alleged.

20. The mother of the victim i.e. informant (PW-1) has deposed that victim is educated up to 10th Standard and the said fact is mentioned in the report lodged by her at Exh.32. She has also admitted in her evidence that the victim was not sent to special school for intellectually disabled persons. According to her she studied in local school of her village. It means that the victim is matured enough, hence studied up to 10th Standard, having passed from 1st to 9th Standard. Certainly, while studying up to 10th Standard she likely to get mingle with fellow students. However, the victim unable to answer the questions put to her while recording her evidence. The facts narrated by her while recording her statement as per Section 183 of BNSS and considered as her examination-in-chief are not recorded in form of questions and answers, but appears to be recorded in one stroke. As stated earlier that while recording the evidence of victim observation is made that she answers the questions put to her in yes or no and unable to understand the suggestions put to her. In fact, the sister of the victim (PW-4) has admitted in her evidence that when any outsider asks any question to the victim she did not talk properly and answered as “Hoo-Hoo”. She has also admitted that it did happen that when the victim was asked about the incident by them, she answered in “Hoo-Hoo”. She has further admitted that if the victim is asked about the incident she unable to narrate the incident in words. She has also admitted that victim is not able to talk normally. Similarly, the grand-

mother of the victim (PW-5) has admitted in her evidence that victim is intellectually disabled, hence unable to talk. In fact, as per evidence of Medical Officer Dr. Akansha Gharde (PW-7), who medically examined the victim, the history was narrated by the mother of victim. Even API Rupali Pawar (PW-9), who recorded the statement of victim with the help of special teacher on 28.12.2024 has admitted in her evidence that the statement of victim recorded in continuity was not told by her in one stroke. In fact, the Medical Officer Dr. Sneha Sharma (PW-10), who issued certificate of mental retardation of victim at Exh.76 and concession certificate for mentally retarded of the victim at Exh.77 has specifically admitted that victim is unable to speak. Even the investigating officer SDPO Vivek Patil (PW-12) has admitted in his evidence that the victim is intellectually disabled, hence unable to talk. So, the question arises that when the victim is unable to speak or talk, unable to narrate the incident in one stroke and while answering the questions put to her by outsider she unable to talk properly and gave answers as “Hoo-Hoo”, then how her statement was recorded under SAection183 of BNSS at Exh.35 by the Judicial Magistrate in one stroke. The learned Judicial Magistrate has not made any observation or put up any note in statement of victim at Exh.35 that she was narrating the incident in one stroke or unable to talk properly or answering the questions as “Hoo-Hoo”. In such circumstances the doubt arises that whether the statement of the victim was

recorded as per her say, or as per say of her mother and special teacher who were present with her. Actually, as per the contents of statement of victim at Exh.35, the videography of statement of victim was done through one Rishikesh Ramesh Gabhne. However, said person is neither cited nor examined as witness by the prosecution. Similarly, the Investigating Officer SDPO Vivek Patil (PW-12) nowhere deposed that he seized the memory card or pen drive containing videography of statement of victim from said Rishikesh Gabhne and no such pen drive or memory card containing videography of recording of statement of victim by the Judicial Magistrate is filed on record. Therefore, in such circumstances doubt arises about the occurrence of incident as narrated by the victim before judicial magistrate and it would be fatal to rely upon her evidence. In fact, doubt arises about very genesis of the incident.

21. My view get strengthen due to the fact that the incident was happened on 16.12.2024 and according to the mother of victim (PW-1), the victim was irritating and frightened from 17.12.2024 and on 22.12.2024 she asked the victim as to what happened. It shows that though the victim was irritating and frightened as per evidence of her own mother from 17.12.2024 even then she was not asked about its cause for more than 5 days till 22.12.2024. As per the sister of the victim (PW-4) the victim was silent and irritating on 22.12.2024, hence her mother asked the victim as to what happened. As per the grand-

mother of the victim (PW-5), her son, her daughter-in-law and elder sister of the victim returned home from Nagpur at about 10:00 to 10:30 p.m. and then the victim told about incident to her mother. Thus, as per grand-mother of the victim she narrated the incident to her mother on 17.12.2024 itself. As per the special teacher Ranju Dongre (PW-2) the statement of the victim was recorded in police station on 23.12.2024 by API Pawar. API Rupali Pawar (PW-9) has admitted in her evidence that special teacher Ranju Dongre (PW-2) has inquired about the incident from victim on 23.12.2024, but she told nothing about the incident. She has also admitted that since 23.12.2024 the special teacher asked the victim about incident for several times and finally her statement was recorded on 28.12.2024. The mother of victim has admitted in her evidence that the statements of the victim was recorded by police on 23.12.2024 as well as on 24.12.2024 in presence of special teacher. It means that the victim told nothing about the incident to police from lodging of FIR on 23.12.2024 till 28.12.2024. It shows that FIR was registered against the accused on 23.12.2024 and they were arrested on the same day as per arrest panchnamas at Exhs.95 and 96, though the victim has not told anything about the incident to the police against the accused till 28.12.2024. API Rupali Pawar (PW-9) has admitted in her evidence that she registered Crime No.466/2024 against the accused on basis of report of mother of victim. It means that crime was registered

against the accused and they were arrested on basis of report of mother of the victim without having firsthand information from the victim about alleged incident against the accused. In fact, the statement of the victim dated 24.12.2024 recorded by police as per mother of the victim is not on record. The contents of statement recorded by police of the victim on 23.12.2024 i.e. on the day of lodging of FIR shows that victim merely told that she having burning sensation in her vagina and not uttered a single word about any incident happened with her. It gives rise to the inference that after due deliberation the report was lodged against the accused persons on 23.12.2024 though the incident allegedly happened on 17.12.2024 and statement of the victim was recorded after more than 5 days on 28.12.2024 by police from the lodging of report on 23.12.2024. Similarly, the statement of the victim by judicial magistrate was get recorded after 10 days on 02.01.2025 at Exh.35 from the lodging of report on 23.12.2024. The mother of the victim i.e. informant is not witnessed to any part of incident and she was informed about the incident by victim on 22.12.2024 after more than 5 days from the incident happened on 17.12.2024 and then after one day i.e. on 23.12.2024 the FIR was lodged. Thus, in view of the aforesaid facts the very genesis of the incident becomes doubtful.

22. As per the mother of the victim (PW-1) the accused took victim with them to the house of accused No.2 and in his house the gang rape was committed on the victim. The mother

of the victim has admitted in her evidence that for going to the house of accused No.2 one has to go by main road for some distance and then one has to turn inside. She has admitted that the incident was happened on market day and due to which there was to and fro of people on road in front of her house. She has also admitted that in front of her house there is dairy of Mr. Bagadkar and when the dairy is open the people sit in front of it. She has further admitted that in vicinity of her house there are shops and adjoining to her house there are many houses. She has specifically admitted that shops near her house having CCTV cameras installed. Similarly, the grand-mother of the victim (PW-5) has admitted in her evidence that there was market day on the day of incident, hence crowd of people going to and fro from road. She has also admitted the existence of milk dairy in front of her house. As per the prosecution story the incident was happened in between 4:00 to 5:00 p.m. The mother of the victim (PW-1) deposed that the incident was happened at 5:30 p.m. It means that incident was happened on market day in broad day light when there was to and fro of people on road in front of house of victim and shops likely to be opened due to market day. So, there is every possibility that someone from people going from road or present in dairy in front of house of victim or someone from the houses adjoining to the house of victim have seen the accused taking the victim from her house by main road to the house of accused No.2. However, no independent witness

is examined by the prosecution in this respect. In this backdrop it is very hard to believe that the accused in presence of all said persons took victim to the house of accused No.2 and no one watch them while doing so. Similarly, CCTV footage is not get verified and collected to show involvement of the accused in the offence alleged though the CCTV cameras installed in the shops near house of the victim as deposed by her mother. All these facts go to the root of genesis of the incident as sought to be placed on record by the mother of the victim i.e. informant. In such circumstances, evidence of the victim (PW-3) is not reliable at all without corroboration.

23. The mother of the victim (PW-1), her sister (PW-4), her grand-mother (PW-5) and her father (PW-8) all of them deposed that rape was committed on victim in the house of accused No.2. However, the victim nowhere deposed said fact in her evidence. Even in her statement recorded by the police as well as by the Judicial Magistrate at Exh.35 she nowhere deposed that sexual intercourse was committed with her. In fact, her mother i.e. informant (PW-1) has admitted in her evidence that at the time of recording her statement in court the victim not told that sexual intercourse took place with her. Moreover, the mother of the victim deposed that while lodging report and recording her statement by police, she told to police that victim told her that accused persons committed sexual intercourse with her, but failed to assign any reason as to why said fact was not

recorded in her report and statement. The Investigating Officer SDPO Vivek Patil (PW-12) has admitted in his evidence that the mother of victim never told while recording her statement that the victim said her that the accused committed intercourse with her. Similarly, API Rupali Pawar (PW-9), who recorded the report of the informant has admitted in her evidence that while lodging report the informant never told that the victim told her that the accused committed sexual intercourse with her. At the same time the informant i.e. mother of the victim (PW-1) deposed that her elder daughter i.e. Ruchita (PW-4) shown photograph of penis of male on mobile phone to the victim and asked her whether such penis was inserted in her vagina and she replied in the affirmative. Similarly, Ruchita (PW-4), the elder sister of the victim deposed that she shown photograph of penis on mobile phone to the victim and asked her whether they inserted penis in her vagina and the victim replied yes. However, the victim (PW-3) nowhere deposed that anything such was happened. She nowhere deposed that photograph of penis shown to her on mobile phone and she replied in the affirmative when asked whether such penis was inserted in her vagina. Similarly, Ruchita (PW-4) deposed that her mother called both the accused to her house and asked them whether they have done illicit act with the victim and they declined. She has also deposed that her mother then asked the victim whether accused No.1 has done illicit act with her and the victim replied her in affirmative. She has

specifically admitted in her evidence that she told said facts to police while recording her evidence. However, the Investigating Officer SDPO Vivek Patil (PW-12) has admitted in his evidence that Ruchita (PW-4) never told while recording her statement that her mother asked the victim whether accused No.1 has done illicit act with her and the victim replied in affirmative. In fact, the mother of the victim and even the victim nowhere deposed that the accused were called to her house and asked whether they have done illicit act. Even she nowhere deposed that she was asked that whether accused No.1 has done illicit act with her and she replied in affirmative. All these facts shows that the prosecution witnesses including mother, father, sister and grandmother of the victim exaggerated the actual fact and deposed those facts which never happened and never told to them by the victim, particularly about alleged gang rape. Hence, their evidence is not reliable and helpful to corroborate the version of the victim, particularly when their knowledge about the incident based on the information provided by the victim and when the victim herself is not found reliable and when said witnesses deposing those facts which were not actually happened.

24. The Medical Officer Dr. Akansha Gharde (PW-7), who examined the victim deposed that she found no external injury on the person of the victim. She also deposed that hymen perineum of the victim was torn. But as discussed above, the victim nowhere deposed that the accused committed forcible

sexual intercourse with her. In fact, the Medical Officer has admitted in her evidence that hymen can be torn due to various reason. Moreover, as per Medical Officer history that on 16.12.2024 at about 4:00 to 5:00 p.m. accused done sexual intercourse with the victim was told by the mother of the victim and not by the victim herself. It is discussed aforesaid that the mother of the victim is not reliable witness. The Medical Officer has admitted that without referring the report of Forensic Science Laboratory, she is unable to give final opinion. The report of Forensic Science Laboratory was not referred to Medical Officer. So, the evidence of Medical Officer Dr. Akansha Gharde (PW-7) also not helpful to corroborate the version of the victim and her mother.

25. On minute scrutiny of evidence of prosecution witnesses, I found material discrepancies which goes to the root of the incident. As per the prosecution story the incident was happened in between 4:00 to 5:00 p.m. on 16.12.2024. The informant i.e. mother of the victim deposed that the incident was happened at about 5:30 p.m. It means that the incident was likely to be happened in between 4:00 to 5:30 p.m. The informant (PW-1) has admitted that victim never went outside without their company. Ruchita (PW-4) has admitted in her evidence that as the victim is intellectually disabled, she is not in contact with outsiders. Grand-mother of the victim (PW-5) has admitted that the victim is not kept alone and whenever we go

out, we kept someone with the victim. She has also admitted that she went to market at about 5:00 to 5:30 p.m. on the day of incident. Actually, the father of the victim (PW-8) has specifically admitted that from 15.12.2024 to 08.01.2025 he was present in village. The victim nowhere deposed that only she and her grand-mother were at home at the time of incident. It means that the victim was not alone on 16.12.2024 at 4:00 to 5:00 p.m. at home and someone was present with her. Moreover, on 16.12.2024 the father of the victim never went to Nagpur but at his village as per his own evidence. Even the grand-mother of the victim was at home in between 4:00 to 5:00 p.m. when the alleged incident was happened and went to market at 5:00 p.m. All these facts clearly shows that in fact no incident was happened as alleged and victim was not taken away from her home. Due to said facts, the genesis of the incident itself not found probable and doubt arises about happening of any such incident.

26. In my view, in the above backdrop the delay in reporting the matter to the police need to be appreciated. The incident was happened on 16.12.2024 and on 17.12.2024 the victim was irritating and frightening as per her mother i.e. informant. But the victim was not asked as to what happened till 22.12.2024 and on 22.12.2024 when asked to victim, she narrated the incident. In fact, as per grand-mother of the victim (PW-5) her son and daughter-in-law returned from Nagpur on

16.12.2024 at about 10:00 to 10:30 p.m. and then the victim narrated the incident to them on the same day. As per the mother of the victim the incident was told to her by the victim on 22.12.2024 at about 4:00 to 5:00 p.m. She has also deposed that Duggipar is at distance of 15 minutes by motorcycle. She has further has admitted that her husband is Police Patil of village and regularly used to visit police station and police personals of Police Station, Duggipar are very well acquainted with her husband. According to her she went to lodge report with her family members to police station on 23.12.2024 at about 9:00 to 10:00 a.m. However, printed FIR at Exh.33 clearly shows that the FIR was lodged on 18:56 hours i.e. at 06:56 p.m. on 23.12.2024 i.e. after more than 24 hours from the narrating of incident by the victim to her mother on 22.12.2024. Moreover, the informant has admitted that she and her husband having mobile phones. However, the informant is silent about the reason for delay in lodging FIR. As per the father of victim (PW-8) when he came to know about the incident he inquired about it from the accused No.1 and on next day the father and husband of sister of accused No.2 came to his house and then he went to lodge report. He has admitted that his brother is police serving in Duggipar Police Station at the time of incident. He has also admitted that as Police Patil he has to intimate to police if any incident happened in village and having phone numbers of Police Station Officers and bit in-charge. However, even he failed to

assign any reason for delay in lodging FIR. The incident allegedly happened was serious. In fact, in a case if there is reason for delay in reporting the matter to police, it must be explained to the satisfaction of the court. There was 24 hours delay in lodging FIR in present case. However, in the present case the delay is not properly explained and even though there was knowledge to the father of the victim as Police Patil that criminal incidents required to be intimated to the police immediately and even he having avenues to do so, he failed. Hence, in the present case unexplained delay in lodging FIR is fatal to the prosecution and it resulted in embellishment.

27. Therefore, in view of the circumstances noticed by me and discussed above, clearly suggests that the genesis of the case of the prosecution is not supported by direct, circumstantial and medical evidence. The independent witness is not examined to prove that the victim was taken by the accused to the house of accused No.2 as alleged. The identity of the accused persons is not established to prove that they are involved in the offences alleged against them. The parents and relatives of the victim examined by the prosecution are not found reliable as they have exaggerated the actual facts and deposed those facts which never happened with the victim. The evidence on record creates doubt about complicity of the accused in crime. The delay in lodging FIR in backdrop of the totality of the circumstances would show that prosecution case cannot be accepted as gospel truth. There

are numerous lacunas in the prosecution case and the prosecution failed to connect all the dots by leading cogent and concrete evidence. In such circumstances, the evidence of the victim is not found reliable and sufficient to prove the involvement of the accused in the commission of the offence. Therefore, the accused deserves benefit of doubt. Accordingly, I answered point Nos. 1 to 6 in the negative. In the result, I pass the following order:-

ORDER

1. Accused No.(1) Chhatrapal s/o Vilas Chaudhari and (2) Pranay s/o Deochand Chindhalore are hereby acquitted under Section 258 of Bhartiya Nagarik Suraksha Sanhita of the offences punishable under Sections 70, 75(2), 137(2) and 351(2) of the Bhartiya Nyaya Sanhita and Section 3(1)(w)(i)(ii) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. The accused are in jail; they be released immediately if not required in any other case or crime.
3. Case property includes clothes and pen drive, being worthless be destroyed after completion of appeal period.
4. Accused persons to comply with the provisions of section 481 of BNSS and to furnish P. R. Bond of Rs.15,000/- each with one solvent surety in the like amount.

Gondia. (K. N. Gautam)
Date : 28.07.2026. Special Judge [Under Atro Act] &
Additional Sessions Judge, Gondia.

CERTIFICATE

I affirm that the contents of this P. D. F. file Order are same word for word as per original Order.

Name of the Court	:-	Shri. K. N. Gautam District Judge-3 and Additional Sessions Judge, Gondia.
Name of the Steno	:-	Shri. N. A. Borkar Stenographer (Grade-I)
Date of Order	:-	28.07.2026
Order signed by presiding officer	:-	28.07.2026
Order uploaded on	:-	28.07.2026