


MHGO010005462018		Presented on : 16.05.2018 Registered on : 16.05.2018 Decided on : 18.03.2026 Duration : 07Y. 10M. 03D.
<u>IN THE COURT OF SESSIONS JUDGE AND SPECIAL JUDGE, GONDIA</u> (Presided over by K. N. Gautam)		
<u>Date of Judgment : 18.03.2026</u>		
SPECIAL (POCSO) CASE NO.37/2018		Exh.No.
(Crime No.337/2017 of Police Station, Rawanwadi)		
<u>Under Section 354A of the Indian Penal Code and Sections 10 and 12 of Protection of Children from Sexual Offences Act.</u>		
Prosecution		The State of Maharashtra, Through Officer In-charge of Police Station, Rawanwadi, Tah. and Dist. Gondia.
Represented by		Mr. K. D. Pardhi, APP for the State.
Accused		Ramesh s/o Dadulal Agrawal, Aged about 58 years, Occu.: Agriculturist, R/o Shitlabai Mohalla, Ward No.16, Gram Dhuma, Tah. Lakanadon, Dist. Shivani. Presently R/o Kamtha, Tah. and Distt. Gondia.
Represented by		Mr. M. A. Sheikh, Advocate for accused.

Date of offence	:	03/12/2017
Date of FIR	:	05/12/2017
Date of Charge-sheet	:	16/05/2018
Date of framing Charge	:	22/09/2022
Date of commencement of evidence	:	28/08/2023
Date on which judgment is reserved	:	18/03/2026

Date of Judgment	:	18/03/2026
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	Ramesh s/o Dadulal Agrawal	10.02.2018	10.02.2018	Sec. 354A of the IPC & Sec.10, 12 of POCSO Act.	Acquitted	--	1 day.

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A- Prosecution :-

Rank	Name	Nature of Evidence	Exh.
PW-1	Victim (name as per charge-sheet)	Victim	25
PW-2	Brother of victim (name as per charge-sheet)	Brother	31
PW-3	Mother of victim (name as per charge-sheet)	Informant	32
PW-4	Dhananjay s/o Munnalal Tandekar	Panch	36
PW-5	WPHC Isha Kishor Jaiswal	Police witness.	39
PW-6	PSI Laxman Kunal Kirtane	I.O.	41
PW-7	Hansraj Premlal Gajbhiye	Registrar	51

B - Defence Witness, if any :

Rank	Name	Nature of Evidence	Exh.
DW-1	Geeta Gopal Agrawal	Neighbour	62
DW-2	Yeshukulabai Mehatarji Dharne	Housemaid	64

C - Court Witness if any -- Nil.

LIST OF PROSECUTION/DEFENCE/COURT EXIHIBITS

A- Prosecution :-

Sr. No.	Exhibit Number	Description
1.	15	Charge of accused.
2.	26, 53	Birth Certificate of victim.
3.	27	Statement of victim u/s 164 of Cr.PC.
4.	33	Report.
5.	34	Printed FIR.
6.	37	Letter issued to Gram Panchayat, Kamtha for supplying panch.
7.	38	Spot panchnama
8.	52	Birth report of victim.

B- Defence :- -- Nil.

J U D G M E N T

(Delivered on 18.03.2026)

The accused stands trial for the offences punishable under Section 354A of the Indian Penal Code (hereinafter referred to as 'IPC' for the sake of brevity) and Sections 10 and 12 of Protection of Children from Sexual Offences Act (hereinafter referred to as 'POCSO Act' for the sake of brevity).

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

That the victim was residing with her family and she was about 12 years of age at the time of incident. On 03.12.2017 at about 6:30 p.m. the victim was playing in front of her house.

The accused was residing in rented house adjoining to the house of the victim. The victim went to her home at the time of incident and told her mother that there is nerve strain to the accused and he asked for bottle of Balm. The mother of the victim accordingly gave bottle of balm to the victim and she went to the house of accused with bottle of balm. However, the victim has not returned home for more than half an hour. Hence, her mother sent her brother to call her to the house of accused. However, the brother of the victim immediately returned home and told by hand signals that he saw that the victim was massaging near the thigh of the accused. So, the mother of the victim again sent her brother to call her, who brought the victim with him. The mother of the victim then asked her as to why there was so much delay. The victim then told her that when she went to the house of accused, to whom she was addressing as Dadaji, the accused removed his clothes and he was wearing only knicker. She said that the accused switched off light of the room, started T.V., lie down on the bed and asked her to massage near his thigh. She told that when she was massaging near the thigh of the accused, the accused was saying that his nerve went to some other place and asked her to massage with force. She has further told that when she was massaging, the penis of the accused get enlarged and he asked her to massage his penis, due to which she get frightened and feel ashamed. The informant i.e. mother of the victim then told about said incident to Geeta

Agrawal, the sister of the accused, who asked her to settle the matter mutually. She has also asked the informant to wait for wife and son of the accused to come. However, the mother of the victim i.e. informant lodged report of incident with Police Station, Rawanwadi on 05.12.2017. ASI Anand Yele registered Crime No.337/2017 on basis of report lodged by the mother of the victim. The investigation was done by PSI Laxman Kirtane.

3. PSI Laxman Kirtane visited the spot and conducted panchnama of the spot shown by the victim. He obtained sketch of spot from Circle Officer, Kamtha. He recorded the statements of the witnesses as per their say. The further investigation was done by PSI Uddav Hake. He arrested the accused and sent him for medical examination. He sent the victim and her brother to Judicial Magistrate for recording their statements as per Section 164 of Cr.PC. He recorded the statement and supplementary statement of the victim as well as statement of her brother as per their say. At the end of investigation, he submitted charge-sheet against the accused in Special Court, Gondia.

4. The charge was framed by my learned predecessor vide Exh.15 on 22.09.2022 against the accused in respect of offences punishable under Sections 354A of the Indian Penal Code and Sections 10 and 12 of Protection of Children from Sexual Offences Act. He 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 Shri. M. A. Sheikh for the accused. 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 03.12.2017 at about 6:00 to 6:30 p.m. in his house situated at village Kamtha, Distt. Gondia, the accused made physical contact and advances involving unwelcome and explicit sexual overtures to victim girl child, aged 11 years? ... **Not Proved.**
2. Whether prosecution further prove that on the same date, time and place, the accused committed the offence of aggravated sexual assault on victim girl child, aged 11 years by causing her to touch his penis and thigh with sexual intent? ... **Not proved.**
3. Whether prosecution further prove that on the same date, time and place, the accused committed the offence of sexual harassment against the victim girl child, aged 11 years? ... **Not proved.**
4. What order? **As per final order.**

REASONS

AS TO ALL POINTS :

6. In order to prove its case, the prosecution has examined 7 witnesses and closed its evidence by filing pursis at Exh. 54 dated 05.08.2024. The statement of the accused is recorded as per section 313 of Cr.P.C. at Exh.56. The accused examined two witnesses in his defence and closed his evidence by filing pursis at Exh.71.

7. The victim (PW-1) is the principal witness. It is disclosed in her evidence that the incident was happened in the year 2017 and at that time she was studying in 6th Standard. She has completed 10 years of age at the time of incident. On 03.12.2017 at about 6:00 p.m. she was playing in front of her house and at that time the accused, who was residing near her house called her and told that he is suffering from cramp. The accused asked her to massage him, so she went inside his house. The accused was alone in his house and he having a towel wrapped around his waist and wearing shirt. The accused switched-off the light and put on the T.V. The accused firstly asked her to massage on his back and then turned and asked her to massage his thighs. The accused thereafter asked her by sign to massage by force near the place of his penis. Then he asked the victim that whether there is balm at her house and she said that she having balm. The accused then asked her to bring balm from

her house. The victim then went home and brought balm. The accused applied balm himself and asked the victim to massage his penis, due to which his penis became stiff and dangling. Due to which the victim was gets frightened. Thereafter, her younger brother came to call her and accused told him that she would come after some time and again asked her to massage for some more time. Thereafter, the accused gave *Pedha* to her and said that whenever he would call her, she should come to him. The victim then went to her home. The mother of the victim asked her as to why it took her so long to come and she disclosed all the facts happened to her mother. Her mother then lodged the report of incident with police.

8. The prosecution has examined the mother of the victim (PW-3) to corroborate her version. It is revealed from her evidence that the incident took place on 03.12.2017 at 6:30 p.m. at Kamtha. The victim was playing in front of her house. After some time, victim came and told that accused has joint pain and he asked her to bring bottle of balm. She took the bottle of balm and went, but did not come back. Hence, she asked her son to call the victim from the house of accused. Her son went and came back after some time and told that the victim is massaging the penis of the accused. So, she again sent her son to call the victim immediately. After returning home, the victim told her that the accused was previously wearing clothes and then removed his pant and towel. She has also told that thereafter,

the accused lied down on the bed and she was massaging the penis of the accused, due to which it was growing big. She has further told that the accused asked her to continue massaging and making some noise. She disclosed said facts to Geeta Agrawal, the sister of wife of accused and Geeta asked her to wait for wife and son of accused to come and not to take any action. The son and wife of accused were out of station and she made phone call to the son of accused, who told her that he would come on next day, but did not come. Hence, she went to police station and lodged report. She duly proved the report lodged by her at Exh.33.

9. The prosecution has further examined the brother of the victim (PW-2) to corroborate her version. It is come in his evidence that the incident took place in December, 2017 at about 6:00 to 7:00 p.m. At that time, his mother sent him to call the victim from the house of the accused and accordingly, he went to the house of the accused. He saw that the accused was lying on bed, wearing small Chaddi (pant) and not having any other clothes. The victim was sitting on the bed and was pressing near the thighs of the accused. He told to the victim that mother is calling and returned home. After some time, he told whatever he saw to his mother. His mother again sent him to the house of accused to call the victim. When he was again gone to the house of accused, he saw that the victim was coming back and he brought her to home.

10. The learned APP strenuously argued that the victim deposed true facts of the case and her version is duly corroborated by her mother and brother in respect of material particulars of the facts deposed by her. He contended that no material contradictions and omissions brought on record during cross-examination of victim, her mother and brother to disbelieve them. According to him, there is no reason for the mother of the victim i.e. informant to implicate the accused in false case at the cost of reputation of her daughter. He contended that there is trustworthy evidence on record against the accused and he may be convicted for the offences charged against him.

11. Per contra, the learned counsel for the accused submitted that the victim deposed falsely against accused to implicate him due to inimical terms of her family with the accused on say of her mother and her mother and brother deposed falsely to support false story cooked-up by the mother of the victim. According to him, there is unexplained substantial delay in lodging FIR, which definitely speak about embellishment. He contended that there are material omissions in the testimonies of the prosecution witnesses and inconsistencies in their evidence. He contended that the victim and her mother deposing differently about the facts which leads to alleged incident and it clearly indicates that they deposing falsely and cooked-up false case to implicate the accused after

consultation and deliberations. Lastly, he contended that there is lack of reliable and convincing evidence on record to bring home the guilt of the accused and he may be acquitted.

12. Firstly, it is required to be seen that whether the victim (PW-1) was child on the day of incident. The victim (PW-1) deposed that at the time of incident she was about 10 years old. She deposed that her date of birth is 13.04.2007 and she was born at village Kamtha. Similarly, her mother i.e. informant deposed that date of birth of victim is 13.04.2007 and she was about 10 to 11 years old at the time of incident. The victim duly proved her birth certificate at Exh.26. Birth certificate of the victim at Exh.26 clearly shows that date of birth of victim is 13.04.2007. It also shows that entry of date of birth of victim was taken within few days on 03.05.2007. Nothing material brought on record during cross-examination of victim and her mother to disbelieve them in respect of age of victim at the time of incident.

13. Moreover, the prosecution has examined Hansraj Gajbhiye (PW-7) posted as Village Development Officer at village Kamtha and also serving as Registrar having duty to maintain birth and death register. He deposed that he was assigned duty to record name of child, who born in village Kamtha and he used to take entry in this regard in birth register. He brought original birth register containing entry of date of birth of the victim at

Entry No.24 dated 03.05.2007 in court. He duly proved the extract of birth register at Exh.52 containing entry of date of birth of victim at Entry No.24, showing date of birth of the victim as 13.04.2007. According to him, birth certificate of the victim at Exh.53 was issued on basis of entry of her date of birth in birth register. Birth certificates of the victim at Exhs.26 and 53 are similar in respect of their contents. Nothing material brought on record during cross-examination of said witness to disbelieve him. It is nowhere brought on record during his cross-examination that date of birth of the victim is not 13.04.2007 and her place of birth is not Kamtha. The entry is taken in birth register on 03.05.2007 i.e. within 21 days from the birth of the victim on 13.04.2007. The Registrar examined by the prosecution is the government servant and is the most independent witness having no reason to create false record after registration of crime. Moreover, the parents of the victim are not likely to know that in the year 2017 crime would have been likely to be committed against the victim for which she is required to be shown minor, hence her date of birth is falsely shown as 13.04.2007. Thus, there is absolutely nothing on record to show that date of birth of the victim is falsely shown as 13.04.2007. The date of birth of the victim is 13.04.2007 and the incident was happened on 03.12.2017. It means that the victim was about 10 to 11 years old at the time of incident i.e. child as defined in Section 2(d) of the POCSO Act.

14. As per the prosecution story disclosed from police report at Exh.33 lodged by the mother of the victim i.e. informant (PW-3), the victim went to the house of accused for only once with bottle of balm and when for about half an hour the victim never returned home, then her mother sent her son (PW-2) to call the victim and her son went for calling the victim to the house of accused, but returned home and told that he saw the victim massing near thigh of the accused and the informant again sent her son to call the victim, who accordingly went and brought the victim to home with him and then the victim narrated the incident to her mother. It means that mother of the victim was knowing that victim went with balm to the house of accused. However, the victim completely changed the story in her evidence. She deposed that firstly she went to the house of accused as he called her and gave massage on his back, thigh and near penis and thereafter, accused asked her to bring balm from her house. She deposed that accordingly she brought balm from her house and gave massage near penis of the accused, due to which it became stiff and dangling. She deposed that then her younger brother came to call her and she went home after some time by giving massage to the accused for some more time. It means that the victim went to the house of accused for two times firstly without balm and then with balm and on both the occasions her mother was not knowing that she went to the house of accused. Similarly, as per the evidence of victim her

brother came to fetch her only once and she did not accompany with her brother to her home as stated in report at Exh.33 lodged by her mother.

15. Similarly, as per the evidence of her mother (PW-3) the victim went with balm given by her to the victim by intimating her to the house of accused and she sent the brother of the victim to call her, who came and told that the victim is massaging the penis of the accused. The mother of the victim deposed that hence, she again sent her son to call the victim immediately and he got the victim on way while she was returning home. It shows that version of the mother of the victim is completely different from the evidence of the victim regarding the facts as to when and how victim went to the house of accused and for how many times her brother came to fetch her as well as regarding the fact that whether the victim was brought home by her brother or she herself came home.

16. At the same time, the brother of the victim (PW-2) deposed that firstly when he went to the house of accused, he saw that the victim was massaging near thigh of the accused and he told to the victim that mother is calling her. He deposed that after coming home he told the fact seen by him to his mother and his mother again sent him to the house of accused to call the victim and while going to the house of accused, he found the victim returning home and he brought her home. Thus, his

evidence is also contradictory to the evidence of his mother and victim. He nowhere deposed that he saw the victim massaging the penis of accused and told said fact to her mother. Moreover, as per evidence of the victim, she sent her brother back who came to the house of accused for only once and not twice as deposed by him and she was not brought home by her brother as deposed by him.

17. Thus, I found that there are material inconsistencies between the evidence of the victim, her mother and her brother regarding the facts as to how many time she went to the house of accused, whether she went with balm or came subsequently to her home to fetch balm, what the brother of the victim actually saw i.e. whether massaging thigh or penis of accused, how many times he went to call or fetch the victim, whether the victim came with her brother to home or came alone by sending her brother to home. All these inconsistencies between the evidence of the victim, her mother and her brother create serious doubt about their veracity and their evidence is not reliable without corroboration. In fact, all these witnesses are not corroborating each other in respect of material facts of the incident happened and deposing differently.

18. Moreover, the victim (PW-1) has admitted in her evidence that she told to police while recording her that the accused sent her to bring balm from her house when she was

massaging him. The Investigating Officer PSI Laxman Kirtane (PW-6) deposed that said fact was not told by the victim while recording her statement. The victim has also deposed that she did not tell police that accused himself applied balm and his penis was going up and down as deposed by her. It shows that the victim (PW-1) made material improvement in her evidence and deposed those facts which never happened. Similarly, as per her statement recorded by Judicial Magistrate at Exh.27 the victim told to her mother that accused having nerve strain and he asked her to massage, hence she wants balm and by taking balm she went to the house of accused. It again shows that the victim completely changed the story in her evidence and deposed that firstly she went to the house of accused and massaging him and on his say she again came to her house and went with balm to the house of accused. She nowhere deposed that she told to her mother on both the occasions when she was going to the house of accused.

19. Similarly, the mother of the victim (PW-3) deposed that she told to police while recording her statement that the accused asked victim to massage his penis as deposed by her. She has also admitted in her evidence that she has told to police that when the victim was massaging the accused he was making noise as deposed by her. However, both the Investigating Officers i.e. lady PHC Isha Jaiswal (PW-5) and PSI Laxman Kirtane (PW-6) deposed that mother of victim (PW-3) did not tell aforesaid facts

while recording her statement. It shows that the mother of victim has also exaggerated the actual facts and deposed those facts which never happened.

20. It is highly impossible that the victim and her mother never told aforesaid facts deposed by them to the police and Magistrate at the time when those facts were quite fresh in their mind immediately after the happening of the incident and after more than 5 years in the year 2023 at the time of recording their evidence, they deposed those facts. It shows that in order to show that the story cooked-up by them is true they deposing those facts which never happened and tried to exaggerate the actual facts. It again shows that they deposing falsely and hence, their evidence is not reliable without corroboration.

21. In the instant case, the defence raised on behalf of the accused is that due to business rivalry the accused was implicated in false case. To prove said fact, the defence has examined Geeta Agrawal (DW-1), who deposed that verbal altercations used to take place between the accused and the informant. She has also deposed that both the accused and informant running bangles shop and disputed used to take place between them on account of business. She has further specifically deposed that the informant used to ask the accused to close his shop, otherwise, she will implicate him. The said facts are not at all disputed

during cross-examination of Geeta Agrawal (DW-1). Moreover, the mother of the victim (PW-3) deposed that she has disclosed the incident happened to Geeta Agrawal (DW-1) after incident. Even said Geeta Agrawal (DW-1) is cited as prosecution witness, but not examined. It means that said witness is aware about the actual facts occurred and hence, there is no reason to disbelieve her. Her evidence clearly shows that there was business rivalry between the accused and the informant and informant threatened to implicate the accused. Moreover, the victim (PW-1) has also specifically admitted in her evidence that her family was not in talking terms with the family of the accused. It means that due to inimical terms and ill-will between the accused and mother of the victim the possibility of implication of accused in false case cannot be ruled out.

22. My view gets strengthen due to the fact that there is unexplained delay in lodging FIR. The incident was happened on 13.12.2017 at about 6:00 to 7:00 p.m. and the FIR was lodged on 05.12.2017 at about 5:00 p.m. as per contents of printed FIR at Exh.34 i.e. after delay of about 2 days. The informant (PW-3) deposed and gave explanation that she told about the incident to Geeta Agrawal (DW-1), who asked her to wait for wife and son of the accused to come and not to take action. The informant deposed that then she made phone call to son of the accused and he said that he will come on next day, but not come, hence she lodged the report. She has also deposed that she told said fact to

police while recording her statement. However, the Investigating Officer PSI Laxman Kirtane (PW-6) deposed that the informant (PW-3) never told that wife and son of the accused were out of station and she made phone call to the son of the accused, who told that he would come on next day, but did not come. It shows that the explanation given by the informant (PW-3) is after thought. According to the informant (PW-3) she narrated the incident to her husband on 14.12.2017 i.e. after one day. It shows that no such incident was happened and the informant was making planning to implicate the accused, hence not told about the incident even to her husband immediately after incident. In fact, victim (PW-1) has admitted in her evidence that her parents had discussion and after 2-3 days FIR was lodged. Thus, the unexplained delay in lodging FIR clearly shows that after planning, discussion and consultation, the FIR was lodged to implicate the accused. Thus, the unexplained delay in lodging FIR definitely speaks about concoction and on this ground, the prosecution story is not found reliable.

33. The learned counsel for the accused relied upon the case of **X.Y.Z. Vs. State of Maharashtra, Criminal Appeal No. 472/2025, decided on 02.12.2025** to prove his contention. In said case the Hon'ble Bombay High Court held *that "Delay in filing FIR coupled with lack of corroboration and animosity between parties may raise doubt about the prosecution's story, leading to the benefit of doubt being extended to the accused"*.

In the present case also, same thing happened. In the case in hand also there is delay in filing FIR, lack of corroboration and business rivalry between the parties. Hence, certainly doubt arises about proof of the prosecution case as there are sufficient reasons for the informant to lodge false report and the time taken of about 2 days to lodge report clearly indicates that false report was lodged only to implicate the accused after due deliberation.

34. The prosecution has examined Dhananjay Tandekar (PW-4), the panch witness on spot panchnama at Exh.38. However, there is nothing incriminating found at spot such as bottle of balm, clothes of accused having smell of balm and other clothes such as bed-sheet with smell of balm to corroborate prosecution case. Hence, the evidence of said panch witness is not at all helpful to the prosecution to prove its case.

35. So far as Lady police Head Constable Isha Jaiswal is concerned, she has merely recorded oral report of the informant and the statement of victim was recorded in her presence.

36. The Investigating Officer PSI Laxman Kirtane (PW-6) is formal witness, who has done formalities of investigation such as recording statements of victim and informant, collecting birth certificate of the victim from Gram Panchayat, Kamtha, conducting spot panchnama of the spot shown by the victim and sending the victim to the Judicial Magistrate for recording her statement as per Section 164 of Cr.P.C. However, in absence of

direct reliable evidence on record, his formal evidence is of little use to prove the prosecution case.

37. Therefore, after discussing and considering the evidence led by the prosecution, I found that apart from interested versions of the victim, her mother and her brother, there is no other evidence to support the story put-up by the victim and her mother against the accused. None of said witnesses found trustworthy and credible due to lots of improvement and exaggeration made by them. The prosecution has failed to establish the foundational facts to trigger the presumption as postulated under Section 29 of the POCSO Act. The evidence of victim, her mother and her brother lacks corroboration from independent evidence. The defence witness examined by the accused i.e. Geeta (DW-1) is actually the prosecution witness cited by it has duly proved the existence of ill-will and inimical terms between the accused and informant and her evidence remained uncontested in this regard, which proved that there was cause to implicate the accused. The said view gets fortified due to unexplained delay in lodging FIR, which was lodged after consultation and planning. Thus, the prosecution failed to prove its case beyond doubt. Accordingly, I answered point Nos. 1 to 3 in the negative. In the result, I pass the following order:-

ORDER

1. Accused Ramesh s/o Dadulal Agrawal is hereby acquitted under Section 258 of Bhartiya Nagarik Suraksha Sanhita of the offences punishable under Section 354A of the Indian Penal Code and Sections 10 and 12 of Protection of Children from Sexual Offences Act.
2. The bail bonds of the accused stand cancelled.
3. Accused to comply with the provisions of section 481 of BNSS and to furnish P. R. Bond of Rs.15,000/- with one solvent surety in the like amount.

Sd/-
(K. N. Gautam)
Special Judge [Under POCSO Act] &
Gondia. Additional Sessions Judge, Gondia.
Date : 18.03.2026.

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	:-	18.03.2026
Order signed by presiding officer	:-	20.03.2026
Order uploaded on	:-	23.02.2026