

MHNS010025152025



Received on : 01/04/2025

Registered on : 01/04/2025

Decided on : 02/04/2026

Duration : Y. M. D.
01 00 01

Exh. No. : 97.

PART 'A'

<u>IN THE COURT OF SPECIAL JUDGE, NASHIK,</u>	
<u>AT - NASHIK</u>	
<u>(PRESIDED OVER BY PRITI KUMAR GHULE)</u>	
Date of Judgment	: 02/04/2026
Special(POCSO) Case No.	: 93/2025
Details of FIR / Crime and Police Station	: C. R. No. 58/2025 of Ghoti Police Station, Dist. Nashik for the offences punishable under Sections 64, 65,(1), 75, 45 of the Bhartiya Nyay Sanhita and under Sections 4,6,8,12,17 and 21 of the Protection of Children from Sexual Offences Act, 2012.
Complainant	: The State of Maharashtra, Through – Ghoti Police Station, Dist. Nashik.
Represented by	: Ld. A.PP. Smt. L. C. Chavan.
Accused	: 1] Tukaram Govind Sable , Age 53 yrs., (A1) R/o.Near Jain Mandir, Taked Bk., Tal.Igatpuri, Dist.Nashik.
	: 2] Gorakhnath Maruti Joshi , Age 43 yrs., (A2) R/o.Joshiwadi, Taked Bk., Tal.Igatpuri, Dist.Nashik.
Represented by	: Ld. Adv. Shri.B.K. Kewale with Ld. Adv. Shri.Wani for accused No.1. Ld. Adv. Shri.G.L.Bodake, for accused No.2

Part 'B'

Date of Offence	: 07/02/2025
Date of FIR	: 08/02/2025
Date of Charge-sheet	: 01/04/2025
Date of Framing of Charges	: 07/05/2025
Date of commencement of evidence	: 19/06/2025
Date on which Judgment is reserved	: -
Date of the Judgment	: 02/04/2026
Date of the sentencing order, if any	: 02/04/2026

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 of Cr. P. C.
A1	Tukaram Govind Sable	8/2/2025	In Jail	S.64(2) (f) of BNS and S.8, 10, 4, 6, 17, 21 of POCSO Act	Convicted	For S.4 & 6 of POCSO Act and S.64(2)(f) of BNS R/I for for life which shall mean imprisonment for the remainder of that persons natural life and fine of Rs. Two Lakhs i/d. S/I for one year, for S.10 of POCSO R/I for seven years Rs. Twenty Five Thousand i/d. S/I six months. For S.8 of Section 8 of POCSO R/I for five years and fine Twenty five Thousand i/d. S/I for six months.	From 8/2/2025 till today.
A2	Gorakhnath Maruti Joshi	08/02/2025	28/08/2025	-"	Convicted for offence p/u/s 21 of POCSO only.	For S.21 of the POCSO S/I for six months & fine Rs. Sixty Eight Thousand i/d. S/I 3 months.	From 08/02/2025 till 28/08/2025 (6 months 20 days)

PART 'C'

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A] PROSECUTION :-

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
PW 1	Victim girl, Exh.16	Complainant
PW 2	S B, Exh.20	Victim's friend/Classmate
PW 3	S B, Exh.22	Victim's friend/Classmate
PW 4	Dr.Ashwini Pawar, Exh.24	Medical Officer, Rural Hospital, Ghoti
PW 5	Dr.Mansi Patil, Exh.27	Medical Officer, Gynac., C.H. Nashik.
PW 6	Rupali Niranjani Sable, Exh.33	Circle Officer, Taked
PW 7	Dr.Prachi Gavit, Exh.42	Medical Officer, C.H. Nashik
PW 8	Sachin Yogaji Kalyankar, Exh.51	Talathi, Ghoti
PW 9	Dr.Manoj B. Gadekar, Exh.54	Medical Officer, Rural Hospital, Igatpuri
PW 10	Milind R. Pawar, Exh.56	P.C. Ghoti P.S.
PW 11	Mayur A. Rajshirke, Exh.68	C.A.
PW 12	Jitendra P Raut, Exh.76	Asst. C.A.
PW 13	Vijay M. Raskar, Exh.77	Grampanchayat Officer, Taked Bk.
PW 14	Vinod M. Patil, Exh.81	I.O. Ghoti P.S.

B] DEFENCE WITNESSES, IF ANY :-

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
-------------	-------------	---

..
----	----	----

C] COURT WITNESSES, IF ANY :-

<u>Rank</u>	<u>Name</u>	<u>Nature of evidence</u> (eye witness, police witness, expert witness, medical witness, panch witness, other witness)
	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A] PROSECUTION :-

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
1.	17/PW-1	Complaint
2.	18/PW-1	Statement U/s. 164 of Cr.PC. of complainant
3.	19/PW-1	Birth Certificate of victim
4.	21/PW-2	Statement U/s. 164 of Cr.PC. of witness
5.	23/PW-3	Statement U/s. 164 of Cr.PC. of witness
6.	25/PW-4	Requisition Letter dtd.08.02.25
7.	26/PW-4	Medical Certificate
8.	28/PW-5	Medical Certificate
9.	34/PW-6	Order dtd.08.02.25 for panchanama
10.	35/PW-6	Spot panchanama
11.	36/PW-6	Seizure panchanama of bed-sheet
12.	37/PW-6	Pen-drive panchanama
13.	38/PW-6	Clothes seizure panchanama of

		accused
14.	43/PW-7	Letter dtd. 08.02.2025 for conducting medical examination of victim
15.	44, 45, 46/PW-7	C.A. Reports
16.	48/PW-7	Case papers
17.	49/PW-7	Case paper from charge-sheet
18.	50/PW-7	Reference slip for Rural Gramin Hospital, Ghoti
19.	52/PW-8	Written order of Tahsildar
20.	53/PW-8	Clothes seizure panchanama of the victim
21.	55/PW-9	Letter dtd.08.02.2025 of Ghoti P.S.
22.	57/PW-10	Letter dtd.20.02.2025 for depositing the muddemal at FSL
23.	58 to 61/PW-10	Acknowledgment Receipts from FSL
24.	69 to 71/PW-11	Analysis Reports from DNA Dept.
25.	73/PW-11	Letter dtd.13.05.2025
26.	75 & 76/PW-11 (In cross)	From of CM N0.24
27.	78/PW-13	Extract of Birth Register of Taked Grampanchayat
28.	79/PW-13	Copy of Cr.M.A. N0.126/2019 with the order of Ld.JMFC, Igatpuri
29.	80/PW-13	Certificate issued by Grampanchayat
30.	82/PW-14	Letter for sending Panch
31.	84/PW-14	Arrest Panchanama of A-2
32.	85 to 87/PW-14	Muddemal Receipts

33.	88/PW-14	Certificate u/s 63-B of Evidence Act
34.	89/PW-14	Letter to Education Officer
35.	90/PW-14	Letter to Gramvikas Officer
36.	91/PW-14	Letter to Police Superintendent, Nashik Gramin
37.	92/PW-14	The CDR of accused
38.	93/PW-14	CCTV footage video of Camera No.4 dtd.07.02.25 at time 13.05.39
39.	93A/PW-14	CCTV footage video of Camera No.4 dtd.07.02.25 at time 13.30.50
40.	93B/PW-14	CCTV footage video of Camera No.2 dtd.07.02.25 at time 13.05.29 to 13.05.41

B] DEFENCE :- (Admitted by defence)

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
-	-	-

C] COURT EXHIBITS :-

<u>Sr. No.</u>	<u>Exhibit number</u>	<u>Description</u>
-	-	-

D] MATERIAL OBJECTS :-

<u>Sr. No.</u>	<u>Material Object Number</u>	<u>Description</u>
1.	Article A/PW-6	Cream colour Bed-sheet
2.	Article A1/PW-6	Label
3.	Article B/PW-6	Pendrive
4.	Article B1/PW-6	Label

5.	Article C/PW-6	Blue colour Shirt
6.	Article C1/PW-6	Label
7.	Article D/PW-6	Pant of accused
8.	Article D1/PW-6	Label
9.	Article E/PW-6	Baniyan
10.	Article E1/PW-6	Label
11.	Article F/PW-6	Blue colour underwear
12.	Article F1/PW-6	Label
13.	Article G/PW-6	Photograph of door of Bungalow

JUDGMENT
(Delivered on 02/04/2026)

Accused Nos.1 and 2 stands prosecuted for the offences punishable under Sections U/s. 64, 65(1), 75, 45 of Bhartiya Nyay Sanhita (hereinafter referred to as “BNS” for short) and Sections 4, 6, 8, 12, 17 of the Protection of Children from Sexual Offences Act (hereinafter referred to as “POCSO” for short). Accused No.1 is in jail and accused No.2 is on bail.

In order to hide the identity of the victim girl and her classmates, their names are not disclosed in the judgment.

2. The prosecution case in nutshell can be narrated as follows :-

The present case involves disturbing sexual exploitation of the girl student in the Educational Institute at the hands of person who hold authority and trust. The teachers who are to

shape the young minds is traumatizing the victim student.

The victim is 13 years old girl studying in Std. VI and residing with her grand-mother. Her parents are residing at Panvel. Accused No.1 is the Head-Master of her school (referred to as 'Sable Sir') and accused No.2 is the co-teacher in the school (referred to as 'Joshi Sir').

Victim has lodged complaint dated 08.02.2025 and disclosed that -

(i) On **13.01.2025** when she was in the school and went along with her friends **Dhaxxx, Ishxxx and Vaixxx** to give tilgul (sweets of sesame) to accused No.1 Head Master Sable in his office, she was touching the feet of said Sir he touched her breast. This was also noticed by her friends but she felt that it must have happened by mistake and they did not say anything.

(ii) It is further contended that on Wednesday **29.01.2025** when she was in the class-room her class-teacher called and told her that Sable Sir has called her in the office. She and her friend **Ishxxx** went from the class-room to the office of Sable Sir. He sent her friend back to the class, thereafter he switched off the TV of CCTV and pulled her towards him, pressed her breast with his hand and forcibly started putting his mouth into her mouth. When she started to shout he told her not to tell anyone and offered her note of Rs.100/- but she did not take it. Hence, he shouted at her and send her back to the class. When she returned the class of Maths of accused No.2 Joshi Sir was going on. After the Maths

class got over she disclosed to her friend **PW-2 S** the incident done with her by Sable Sir

(iii) One day prior to her birthday i.e. on 05.02.2025 Sable Sir called her in the office and gave chocolate. Next day Sable Sir had not come early to the school. The peon of the school whose name she do not remember gave her two packets of chocolate and said that, "Sable Sir has asked her to distribute the chocolates to the students in the school". Therefore, one packet she distributed in her class and Maxx distributed other packet in other class. After some time Sable Sir came and asked her whether she distributed the chocolates to the children.

(iv) On **07.02.2025** victim went to the school at 09.00 a.m. for Nanikali (PT.) class when accused No.1 who was standing outside the computer room called her and asked her to come to his house when he calls her. He also told her that his house is yellow bungalow near the lane of Jain Mandir and big Banyan tree. Thereafter she went to her class-room and at 01.00 p.m. when the class was on the accused No.2 Joshi Sir told the victim that, 'her grand-mother has come to the house of accused No.1 Sable Sir and she is called over there". The victim went out of the class to the house of accused No.1 who was standing in front of the house. He waived to her by hand and called her inside, closed the door. He gave her water to drink and asked her to sit. She felt like getting giddy, that time accused No.1 caught her hand and

took her into the bed-room. She was not able to think of anything. She was getting sleepy. After some time when she woke up there were no clothes on her person and there were no clothes on the person of accused No.1 also. Her toilet place was paining. Something like oil was fallen on her toilet place. When she confronted accused No.1, he said that, “he only, applied the oil, she need not be afraid”. She got up, worn her clothes and told accused No.1 that, ‘she will inform everything to her mother’. Accused No.1 brought her out of the bed-room and made her sit and told her not to state anything to anyone, he offered her Rs.100/-. She refused to take, then he offered her Rs.500/- which she did not take.

It is further contended that, accused No.1 Sable threatened to kill the grand-mother of victim if she disclosed to anyone and send her back to school. When she returned to the school it was recess for lunch. She was under fear. She went into the class-room and started crying. Her three classmates (**PW-3 S.B., PW-2 S, Maxx**) names given by her, inquired with her the reason for crying. She disclosed the act done with her by accused No.1 Sable Sir.

It is further contended that, after a while victim’s stomach started paining. Her toilet place was bleeding. Her friends (**PW-2 S and Ishxxx**) told to accused Joshi Sir who gave Rs.50/- (Rs. Fifty only) and her friends brought sanitary pad for her. Thereafter, accused No.2 Joshi Sir made her sit in another class-room along with her friend **PW-2 S and PW-3 S.B.** When the three girls were seated in the other class-room

accused No.1 Sable Sir came to them and inquired whether she is feeling well and asked if he can bring chocolates and biscuits for her and went away. After the school time got over, she went home, changed her school dress and sat to do her studies. She was having little pain in her stomach. Her grand-mother cooked food. They were about to eat food and Lalu Baba came home and asked her 'what she did in school today, said that "Sable Sir wants to talk to her" and phoned Sable Sir. That time accused No.1 Sable Sir stated to her that, "ताई तु हे काय करून ठेवले आहे, Tai, what you have done, this". She then told accused No.1 that, "Sir, what you have done with me, do not do with other girls" and he cut the phone. The said Lalu Baba was saying to her grand-mother that, "in the school girls have done something" and her grand-mother started beating her and said that, "she will go to the school tomorrow and ask". That time the parents of her class-mates and persons of the village came and inquired with her what happened. She told everyone that, "Sable Sir has committed rape on her". She was taken to the police station to lodge complaint.

3. The aforesaid complaint Exh.17 was lodged by the victim at Ghoti Police Station on 08.02.2025 and CR No. I-58/2025 came to be registered for offence U/s. 64, 65(1), 75, 45 of Bhartiya Nyay Sanhita (hereinafter referred to as "BNS" for short) and Sections 4, 6, 8, 12, 17 of the Protection of Children from Sexual Offences Act. Accused Nos. 1 and 2

were arrested on 08.02.2025. Accused No.2 is on bail.

4. Victim was sent by police to Rural Hospital, Ghoti for medical examination on 08.02.2025 from where she was referred to Gynecologist at Civil Hospital, Nashik. Accused No.1 was sent for medical examination. The medical samples of accused No.1 and victim were obtained by the doctor. The spot panchanama (Exh.35) was prepared in presence of panchas on 08.02.2025 and on search in his house the bed-sheet from the bed was seized under panchanama (Exh.46). The clothes of accused No.1 were seized under panchanama. The victim's clothes were seized under panchanama. The CCTV footage is taken on the pen-drive under panchanama. The muddemal clothes, bed-sheet and medical samples were sent to C.A.

5. Statements of the victim and her class-mates were recorded by police. Statement U/s. 183 of Bhartiya Nagrik Suraksha Sanhita (hereinafter referred to as "BNSS" for short) of the victim and her school friend **PW-2 S, PW-3 S.B.** studying in her class VI were recorded before Ld. Magistrate, Igatpuri.

Statement of witnesses were recorded. Accused were arrested. Medical examination of accused No.1 Sable was conducted. His blood samples and others samples of victim and accused were obtained. The clothes of the victim and that of the accused No.1 were seized under seizure panchanama. Their medical samples along with clothes were sent to the

C.A. for analysis. On completion of investigation, charge-sheet is filed. Accused No.1 is in jail.

6. The charge was framed at Exh.07, to which accused pleaded not guilty and claimed to be tried. Prosecution has examined in all **Fourteen** witnesses.

7. The statement u/s. 313 of Cr.P.C. of accused Nos.1 and 2 are recorded. Accused No.1 has stated that, since 2019 he has been working as a Head Master. It is a big school. He is against him doing illegal activities, hence some people are against him. On instructions of such people and on instructions of some villagers she is deposing against him under pressure from the outside forces. He is serving since 1992 as a Teacher and from 2019 Headmaster of school. Rajendra Ghorpade, a social worker from Taked village, and Journalist Ram Shinde are friends, and wife of Rajendra Ghorpade is a teacher in the same school. She always comes late to school and leave early after school, as he would give her instructions about it, so Ghorpade used to get angry. Ghorpade is a food contractor, he wanted the contract of the hostel mess and the nutrition scheme of the school. Ghorpade belonged to the opposition group and as the Principal, I had to invite people in power, such as the Sarpanch and Upsarpanch, to school programs. Ghorpade was angry about all these things. Therefore, he held the victim and her family

by the hand and forced them to file a false complaint against him using journalist Ram Shinde. The journalist incited people against him. They have lodged this false complaint against him because after he loses his job the wife of Ghorpade as a tribal was going to be promoted. Due to the pressure, the witnesses are deposing against him and false case is filed against him.

Accused No.2 in statement u/s 313 of Cr.P.C. stated that, since he is a local teacher and sincerely works for long hours in the school therefore there is resentment among other teachers. For school nutrition diet as well as due to political interference and pressure witnesses are deposing falsely against him. He has no concern with this case. He has been deliberately implicated in this case. He was not aware of any prior information about it.

Accused have not examined any witnesses.

8. Taking into consideration the evidence on record, arguments of Ld. APP Smt. L.C. Chavan for the State, the Ld. Advocate Mr. B.K. Kewale for accused No.1 and Mr. G.L. Bodake for accused No.2, following points arise for determination and findings accordingly are given below-

<u>SN</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the prosecution has proved that on 13.1.2025 the victim student of Std. VI came to the office of accused No.1, the Head Master on occasion of distributing tilgul (sesame sweets) with her friends,	.. In the affirmative against accused No.1.

	when she bend down to touch his feet to pay respect, accused No.1 touched her breast with sexual intent and again on 29.1.2025 he called the victim girl into his office, switched off the CCTV, pulled the victim towards him and pressed her breast, forcibly put his mouth into her mouth and prevented her from disclosing to anyone by offering Rs.100/-, which she refused to receive and thereby committed an offence of sexual assault punishable under section 8 of the POCSO Act ?	
2.	Whether the prosecution has proved that on 13.1.2025 the victim student of Std. 6 th came to the office of accused No.1, the Head Master on occasion of distributing Tilgul (sesame sweets) with her friends, when she bend down to touch his feet to pay respect, accused No.1 touched her breast with sexual intent and again on 29.1.2025 he called the victim girl into his office, switched off the CCTV, pulled the victim towards him and pressed her breast, forcibly put his mouth into her mouth and prevented her from disclosing to anyone by offering Rs.100/-, which she refused to receive and thereby he being in the educational institution head, committed an aggravated sexual assault an offence punishable under Section 10 of the POCSO Act ?	In the affirmative against accused No.1.
3.	Whether the prosecution has proved that accused No.1 the Head Master and accused No.2 School Teacher of the school at Taked, Dist. Nashik, in which the minor victim girl is studying in Std. 6 th , on 7.2.2025 at 01.00 p.m. during the school hours, when the class was going on, accused No.2 the teacher on the pretext that her grandmother has come to the house of accused No.1, the Head Master,	In the affirmative against accused No.1.

	sent the victim girl to the house of accused No.1 and accused No.1 committed rape on the victim who is his student and he is in the place of trust and authority as teacher, thereby committed an offence of rape on minor girl below 16 years, punishable under section 64(2)(f) of the BNS ?	
4.	Whether the prosecution has proved that, accused No.1 the Head Master and accused No.2 School Teacher of the school and Junior College, Taked, Dist. Nashik, in which the minor victim girl is studying in Std. 6 th , on 7.2.2025 at 01.00 p.m. during the school hours, when the class was going on, accused No.2 the teacher on the pretext that her grandmother has come to the house of accused No.1 the Head Master, sent the victim girl to the house of accused No.1 and accused No.1 committed rape on the victim who is his student and they are in the place of trust and authority as teacher, thereby committed an offence of penetrative sexual assault on minor girl punishable under section 4 of the POCSO Act ?	.. In the affirmative against accused No.1.
5.	Whether the prosecution has proved that, accused No.1 the Head Master and accused no.2 School Teacher of the school and Junior College, Taked, Dist. Nashik, in which the minor victim girl is studying in Std. 6 th , on 7.2.2025 at 1.00 p.m. during the school hours, when the class was going on, accused No.2 the teacher on the pretext that her grandmother has come to the house of accused No.1 the Head Master, sent the victim girl to the house of accused No.1 and accused No.1 committed rape on the victim who is his student and he is in the place of trust and authority as teacher, thereby committed an offence of aggravated penetrative sexual assault on minor girl below 14 years old, punishable	.. In the affirmative against accused No.1.

	under section 6 of the POCSO Act ?	
6.	Whether the prosecution has proved that, accused No.1 the Head Master and accused No.2 School Teacher of the school and Junior College, Taked, Dist. Nashik, in which the minor victim girl is studying in Std. 6 th , on 7.2.2025 at 1.00 p.m. during the school hours, when the class was going on, accused No.2 the teacher on the pretext that her grandmother has come to the house of accused No.1 the Head Master, send the victim girl to the house of accused No.1 and accused No.1 committed rape on the victim who is his student and accused no.2 the teacher abetted the commission of the offence of rape/penetrative sexual assault on the victim thereby committed an offence of abetment, punishable under section 17 of the POCSO Act ?	.. In the negative.
7.	Whether the prosecution has proved that, accused No.1 the Head Master and accused No.2 School Teacher of the school at Taked, Dist. Nashik, in which the minor victim girl is studying in Std. 6 th , on 7.2.2025 at 1.00 p.m. during the school hours, when the class was going on, accused No.2 the teacher on the pretext that her grandmother has come to the house of accused No.1 the Head Master, sent the victim girl to the house of accused No.1 and accused No.1 committed rape on the victim, which fact the victim disclosed in school, she was crying and accused No.2 failed to report the commission of offence though incharge of the student and victim studying in the school and thereby committed an offence punishable under section 21 of the POCSO Act ?	In the affirmative against accused No.2.
8.	What order ?	.. As per final order.

REASONS

Settled position of Law :-

9. (i) The presumption under Section 29 of POCSO is also applicable, if foundational facts are proved.

In **Navin Dhaniram Baraiye Vs State of Maharashtra, LAWS (BOM)-2018-6-147**, it is held that, presumption under the POCSO Act would operate only upon the prosecution first proving foundational facts against the accused, beyond reasonable doubt.

(ii) Hon'ble Supreme Court the case of ***State of Punjab V/s. Gurmeet Singh, (1996) 2 SCC 384*** it is held that, "it cannot be disputed that, there can be a conviction solely based on the evidence of prosecution. However, the evidence must be reliable and trustworthy".

(iii) Hon'ble Supreme Court the case of ***Alakh Alok Srivastava Vs. Union of India, AIR 2018 SUPREME COURT 2440***, emphasized strict enforcement of child protection laws.

10. I also find useful the citations of Hon'ble Supreme Court which are referred in the citation produced by the Ld. Advocate for the accused No.1 who relied upon Hon'ble Bombay High Court (Bench at Nagpur) in the case of **Shailendra Vs. State of Maharashtra** reported in **LAWS(BOM)-2023-7-660** in which the referred Hon'ble Apex Court in the case of **Phool Singh Vs. State of Madhya Pradesh, reported on (2022)2 SCC 74**, held that conviction can be recorded on sole testimony of victim when deposition of prosecutrix is found to

be trustworthy, credible and is of sterling quality.

The Hon'ble Apex Court in the case of **Madan Gopal Kakkad Vs. Naval Dubey and anr.** Reported in **(1992)3 SCC 2024**, has held that slightest penetration of penis into vagina without rupturing hymen would constitute rape. There is no dispute regarding the legal position.

It is well settled that rupture of hymen is not necessary to constitute offence of rape even slightest penetration in the vulva is sufficient to constitute offence of rape.

The Hon'ble Apex Court in the case of **Ramrao Hadbe Vs. State of Maharashtra and Anr.** Reported in **(2006)10 SCC 92**, observed that, it is true that in a rape case the accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring of confidence in the mind of the court. If the version given by the prosecutrix is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the Court shall not act on the solitary evidence of the prosecutrix. The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen.

The Hon'ble Apex Court in the case of **Babu Vs. State of Kerala**, reported in **2010 ALL MR (Cri) 3342 (SC)** held that, every accused is presumed to be innocent unless the guilt is prove. The presumption of innocence is a human right.

In the citation, the entire cross-examination of the

victim girl is based to bring on record omissions. The material omissions brought on record are that she has not informed to the police that the accused asked her to stop when she was sitting with Babita and PW-5 Sujata. The another omission brought on record is that the accused gave a wink to her is not narrated by her before the police. She admitted during cross-examination that there was a previous quarrel between her mother and the accused. The cross-examination, as regards the victim girl, is concerned, she has admitted portion Mark-A of the statement before Ld. Magistrate under Section 164A of the Cr.P.C.

It is held that, the evidence of Medical Officer shows that there were no fresh or old injury.

It is further held that, the evidence is to be appreciated in the light of the admission given by the victim girl who admitted that there was a quarrel between her mother and the accused on account of hand pump.

In the citation, it is observed that, the evidence of the victim girl and her mother is inconsistent, as far as the alleged incident is concerned, the prosecution story is also improbable in the light of the fact that the incident took place in a dense locality and none has witnessed the presence of the prosecutrix either near the house of the accused or around the house of the accused though the alleged incident has taken place in afternoon hours.

11. Ld. Advocate of Accused No.1 relied upon Hon'ble

Gauhati High in the case of **Md. Shah Alam Vs. State of Assam in Cri. A(J) No. 87 of 2024** in which it is held that, *"victim was 7 to 12 years old minor girl and the allegations were of repeated penetrative acts with bleeding and pain, medical examination showed the hymen to be intact and no injuries suggestive of recent penetration.*

In Rathu Vs. State of Madhya Pradesh, reported in (2007) 12 SCC 57, the Apex Court has held that, 'medical evidence gains significance where ocular testimony is doubtful'.

There is reference of the omission of the core ingredients of the offence of sexual penetrative assault under Section 6 of the POCSO Act in the earliest judicial statement assumes significance.

In the cited authority the prosecutrix in statement before the police merely alleged that, "accused had committed a **"bad act"**". In her statement under Section 164 of Cr.P.C. also she stated that accused had committed **"bad act"** and held her hand. Ld. Magistrate repeatedly asked her what she meant by "bad act", but she remained silent.

Whereas, in her deposition before the Court there are material improvements in which she has deposed about repeated penetrative assault and bleeding during first sexual intercourse.

It is observed that the omission of the core ingredients of offence of sexual penetrative assault under Section 6 of

POCSO Act in earliest judicial statement assumes significance. There is substantial improvement on the foundational aspect of penetration.

The Apex Court in **Mahendra Pratap Singh Vs. State of Uttar Pradesh, reported on (2009) 11 SCC 334**, has held that improvements on material particulars weaken evidentiary value.

In **State of Rajasthan Vs. Smt.Kalki and Anr. reported in (1981) 2 SCC 752**, the Apex Court has held that, contradictions affecting the core of the prosecution case are fatal. It is true that conviction can rest on the sole testimony of the prosecutrix. However, in **Rai Sandeep @ Deepu Vs. State (NCT of Delhi) reported on (2012) 8 SCC 21**, the Apex Court has held that such testimony must be of sterling quality, consistent, natural and free from material contradictions.

Ld. Advocate further relied upon Hon'ble Bombay High Court in the case of **Ganesh Vitthal Shedmake Vs. State of Maharashtra** reported in **LAWS(BOM)-2024-11-64** in which it is held that, "it is the case of victim that, she was forcibly pushed on the ground, and by gagging her mouth, the rape was committed on her three times. She had resisted the appellant from dragging her in the forest.

It is observed that, then there ought to have been some injuries on her body as well as on the body of the appellant. Not a single visible injury was noticed on his body by the Medical Officer. The doctor did not notice any injury to the

private part of the victim. The victim was examined within 10 to 12 hours of the sexual assault. Her hymen was intact. This is a very important circumstance to create doubt about the occurrence of the incident.

It is further held that, I am conscious of the fact that the absence of the injury by itself could not be the circumstance to reject the evidence of the victim. However, all other circumstances have to be read together and the Court has to consider the cumulative effect of the same. In the ordinary circumstances, there ought to have been injuries on the person of the victim as well as to her private part. There ought to have been multiple scratch injuries and bruises on the person of the appellant, when the victim forcibly resisted the appellant against the commission of the rape. IT is very difficult to conclude that the prosecution has proved the guilt of the appellant beyond reasonable doubt. The evidence of the victim is not of stellar quality to accept her sole testimony as a gospel truth.

12. Ld. Advocate further relied upon Hon'ble Bombay High Court in the case of **Anil Chhotelal Chhevele Vs. State of Maharashtra** reported in **LAWS(BOM)-2024-9-86** in which it is held that, the victim on the date of the incident, was 5 years old. She has stated that, after inserting the finger in her private part, she felt pain. She has stated that, on the next date of the incident, she was knowing the accused and his

name. She has stated that, on the next day, her father called the accused to her house and at that time she identified him. She has categorically admitted that, prior to this incident, she was not knowing to the accused.

The informant under Section 164 of the Cr.P.C. was recorded by the Ld. Magistrate. The informant is conspicuously silent about the name of the accused as well as the identification of the accused. Statement of the victim was also recorded by the Ld. Magistrate u/s 164 of Cr.P.C. The victim is silent about the identification of the accused in the morning on 05.02.2017. In my view, this is a very important fact, which has been omitted by them while narrating the incident before the Ld. Magistrate.

The parents of the victim were expected to take the victim in confidence and take her to the nearby area and ask her to point out the house where she was subjected to sexual intercourse.

In our case also victim did not show spot / bed-room to the police during sport panchanama, is submitted by the defence.

13. Ld. Advocate further relied upon Hon'ble Bombay High Court in the case of **Ganesh Vitthal Shedmake Vs. State of Maharashtra** reported in **LAWS(BOM)-2024-11-64** in which it is held that, the ossification test of the victim is not carried out. The evidence adduced by the prosecution is not sufficient to prove the age of the victim girl. As per the evidence of the

victim girl, it was she who left her parents house by calling the accused and went along with him. The victim girl further admitted during the cross-examination that she was having love affair with the accused and as she was fed up with the quarrels between her parents, she left the house.

During cross-examination also he admitted that the entry was taken as per the direction of the District Court, but exactly when the birth was occurred, he is unable to state.

It is further held that, although it is true that in the case of “rape” conviction can be made on the sole testimony of the prosecution, as her evidence is in the nature of an injured witness, which is given a very high value, but when a person is to be convicted on the testimony of sole witness, the utmost care is to be taken and the testimony of such witness must inspire the confidence. If the version given by the victim is unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, court shall not act on the solitary evidence of the victim.

It is further held that, the Courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen. Here, the evidence of the victim girl is not corroborated by independent material as far as the sexual assault is concerned.

It is further held that, mere suspicion is not sufficient as it is not substitute of proof. There is difference between

“might have committed” and “must have committed” as it has to be bridged by the prosecution by unimpeachable and inspiring evidence which is absent in the present case.

As to Point Nos. 1 to 8 :-

14. **Admitted fact that,** accused No.1 is the Headmaster, accused No.2 is the Maths teacher of victim girl studying in Std. VI in the same school. The relationship of accused and victim is of teacher and student. They are known to each other.

Victim admitted that, this school is from Std Vth to XIIth. There is a hostel.

On the point of minority -

15. Victim deposed that her date of birth is 06.02.2012. She was in Std. 6th Div. A. She is a school going girl is not denied. PW-14 P.I. Vinod Patil deposed that, for obtaining Birth Certificate of victim he issued letter Exh.89 to Education Officer, Zilha Parishad Nashik. Similarly, he issued letter Exh.90 to Gramvikas Adhikari, Taked for obtaining her Birth Certificate Exh.19 of victim. It is obtained from Gramvikas Adhikari, Taked. As per the date of birth 06.02.2012 and date of incident 07.02.2025 the victim is 13 years old.

PW-13 Vijay Murlidhar Raskar, Grampanchayat Officer deposed that, the Birth Certificate of the victim is issued on the basis of Birth Register. The Birth Register has entry of

victim's date of birth as 06.02.2018. This entry in the register is dated 28.08.2019 as per the order of the Court. The photo copy of Criminal MA No.126/2019 with the order of the JMFC, Igatpuri. It is at Exh.79. the victim's parents went to the Court for entry of birth date. The Grampanchayat Officer was called in the Court. The Court issued order to the Grampanchayat to take entry of the birth date. Accordingly, the birth date of victim is entered into their Register.

It is rightly submitted by Advocate of accused that, mother of the victim is not examined to depose her date of birth and place of birth. Whether the victim was born in the hospital or at home has not come in evidence nor it is mentioned in the Criminal M.A. No. 126/2019 for obtaining the order of Court for entry of date of birth. It is rightly pointed that there is no Birth Certificate on basis of entry of date of birth in the hospital.

It is seen that, the date of birth was recorded as per the order of the Court. It is seen that, date of birth in the school as well as in the Register of Birth is on the basis of Court order in Cri.M.A. No. 126/2019 in the Court of JMFC, Igatpuri. It is seen that, at the time of incident, the victim was studying in the school of accused is not disputed. She was in Std. VI and was present in the school on date of incident. The schoolmates studying in her class are also the witnesses in this matter and they are also minor girls of class of Std. VI. It is seen that, victim was studying in Std. VI only. She was in the

school studying like other children. The students of class VI are all below 18 years, is known fact. It is not the suggestion of accused that, she was of more age for Std. VI. Even if it is taken that, she was not exact 13 years, still she is below 18 years. She was studying with similar age group students in Std. VI. She was also examined in this Court and it is visible to the naked eye that she is not an adult.

16. The victim has deposed that, she was staying with her grand-mother and going to the school at Taked. She did not get admission in the school at Panvel where her parents are. So, she was staying with her grand-mother at Shirewadi, Tal.Igatpuri. She has also named the class-teacher and Maths teacher of the school. The victim is a school going girl of Std. VI and the minor below age of 18 years is accepted. There is no illegality in recording her date of birth in the Register of Birth on the basis of order of the Court at Igatpuri, is seen. The prosecution has duly proved that victim is a minor. It is seen that, she is about 13 years old. Hence, a minor under Section 2(d) of POCSO. POCSO Act is applicable.

Arguments of Prosecution :-

17. Ld. APP has submitted that, both accused are the teachers of school in which victim is studying and they are having divine relation of Guru and Shishya. The teacher who is a Guru has turned into a devil. The teacher has highest

respect in the school and the students are under the teachers who are the guardians in the school. The submissions from Ld. APP are accepted in respect of the position of teacher, the high respect they hold and the role the teachers have in the life of students.

18. Ld. APP submitted that, u/s 16 of POCSO Act accused No.2 Joshi Sir has abetted the offence. He has knowing helped accused No.1 and made easier for accused No.1 to commit the sexual offence. He has sent the victim girl from his class to the accused No.1 and he had facilitated the offence on the minor. Both the teachers have abused their power and position and are liable to be punished.

19. Advocate for accused No.1 Sable has also submitted that the relationship of the victim and accused is of teacher and student. This school also has Junior College and the present accused is serving for 9 to 10 years as a Headmaster and there are more than 2000 students. He is holding higher position and there are many issues of admission, scholarship, staff-teachers, Junior College, administration. He is doing work legally without succumbing to the pressure of the two groups functioning in the village. For the functions in the school he is required to invite the Sarpanch, therefore the rival group in the village is agitated. The accused is giving priority to the school work hence one group in the village is

always dissatisfied. It is further submitted that, journalist Ram Shinde and social worker Rajendra Ghorpade are bent upon maligning the image of accused.

Ld. APP submitted that, accused has not examined any single witness to show that there were any groups and rivalry to falsely implicate accused. Ld. APP argued that, victim is a student girl, she has no reason to depose falsely against the teacher. Her statement under Section 183 of BNSS corroborate to her evidence. She is reliable. The students PW-2 and PW-3 are corroborating to prosecutrix. The CCTV footage shows how victim is sent out of class by accused No.2 to call victim in his house during school hours.

Ld. APP submitted that, accused No.1 is holding high position in school. He has touched victim's breast when she had gone to give tilgul (sesame sweets) on festival of Sankrant. The mind of child, initially due to respect for teacher, thought he touched by mistake. Ld. APP submitted that, how accused No.1 calls her in office and give his mouth in her mouth.

Ld. APP submitted that, the complaint gives all the incidents by which accused No.1 was sexually assaulting the victim. Then the accused dared to call her home and the victim is made to go to his house with the help of accused No.2. The accused No.2 while teaching in class, is receiving phone call, then conveying message to victim. Had he not used phone on duty, she would have not left the school. Accused No.1 lives nearby. In duration of 01.00 p.m. to 01.35

p.m. he committed heinous act. Accused No.2 is approached by PW-2, PW-3 to help victim. Accused No.2 instead of reporting, is trying to conceal the matter.

20. Ld. Advocate for the accused No.1 has submitted that, conduct of children is to tell every incident at home. In present case, none of the family members of the victim has stepped into the witness box. The victim witness has not reported any incident to her family members and parents in this case. It is submitted that, due to teacher-student relation there is already a media trial taken place. The accused is falsely implicated. There is no evidence of rape at all.

21. It is rightly pointed that in the cross-examination the victim agreed that, this school is from Std. V to X and they also have XI and XII College. She agreed that, school also has hostel. She agreed that accused Sable Sir is the Head-master of the school upto Std. XII and hostel. The college timing is 07.00 a.m. to 11.30 a.m. and thereafter the school timing is 12.00 noon to 05.00 p.m. She agreed that, it is a big school therefore someone is always in the office of accused Sable Sir.

Ld. Advocate of accused No.1 submitted that, there is no possibility of accused committing any sexual act in his office. The cabin has glass door. Someone is always present.

22. Ld. Advocate for accused No.1 submitted that,

statement of the victim is not recorded by video shooting. The victim went to the police station at night on 07.02.2025 and FIR is registered on 08.02.2025 at 09.00 a.m. There is delay in lodging FIR. The medical examination is thereafter conducted at 10.00 a.m. at Ghoti Rural Hospital and there is no positive report given. She is thereafter referred to Civil Hospital at 01.00 p.m.

Ld. Advocate submitted that, PW-14 Vinod Patil, the I.O. in cross-examination agreed that, victim and her relatives came to the police station at midnight. He met the victim at midnight. I.O. agreed that, clothes of the victim in offence of rape are important evidence, but I.O. has not recovered the victim's clothes immediately. It is rightly pointed that, I.O. deposed that, victim's clothes are produced by her relatives after four days. It is seen I.O. deposed that, victim was admitted in the Civil Hospital for 2-3 days, thereafter her clothes were recovered. I.O. deposed that, victim's clothes were seized on 11.02.2025 and incident is of 07.02.2025.

It is seen from evidence of victim that, she returned home from school, changed her clothes at home. She was wearing school uniform which consist of white shirt, blue pinafore (which is referred as Petticoat in marathi). She was also wearing a jeans pant under it and are recovered by the I.O. from her relatives.

23. PW-8 Sachin Kalyankar who is working as Talathi at Igatpuri has acted as a panch for clothes seizure

panchanama Exh.53 and deposed that, mother of the victim showed the clothes which is a blue color pinafore (petticoat) Article-G and blue color jeans pant Article-H. The said clothes are seized on 11.02.2025 under the panchanama, is accepted. The victim's mother brought the clothes at the police station. This panch witness agreed that, there were no presence of blood stains or oil stains on the clothes. Witness also agreed that such clothes are worn by the school girls and available in the market. It is seen that, it is a common school uniform. I find that, said clothes are of the victim as given by her mother and seized by the police.

The school uniform is recovered by I.O. as given by her mother, is seen. Ld. Advocate submitted that, it was not shown to victim. The uniform is worn during school is not disputed. The mother of victim, handed her clothes worn in school, they are seized as her uniform. In villages, girls wear long pant / jeans below the frock is accepted as known to all. I do not have any doubt about seized uniform clothes of victim.

On spot :-

24. Ld. Advocate for accused No.1 argued that, there are shops and Jain Mandir in the lane of house of accused. No CCTV footage from the said area is obtained. I.O. has submitted that, nothing has come in the CCTV coverage of Jain temple. It is submitted that, there is no independent witness who has seen the victim coming and going from the

house of accused No.1. It is not proved that, the victim came to the house of accused and accused was present outside the house when she came. It is submitted that there is no independent witness on this point and hence victim never came to the house of accused. It is argued that, she must have gone somewhere else. It is further submitted that, spot is house of accused No.1 is not shown by victim.

In present case, spot is the house of accused No.1. The accused No.1 is Head-master, his house is know to all. The bedroom in the house is sport of which Spot Panchanama is prepared. There is no reason to disbelieve the same. There is no need to take victim to show the spot (house of accused No.1). The accused brought photograph Article G in cross-examination to show there are two doors to enter his house. Ld. Advocate rightly submitted that,the house Head-master will not be one single bedroom and there are two children, wife as his family. It is seen that, two doors are adjacent. The Spot Panchanama shows Hall, bedroom. The spot is house of accused, which has his bedroom. There is no other house than that of accused No.1 as in Panchanama, is seen. The two doors adjacent, show one door leads into Hall and Bedroom. The victim has deposed that, she told to police, she was taken in bedroom. In my veiw police can easily go to the house of accused No.1, the Head-master and prepared spot panchanama of bed. I do not have any reason to discard spot panchanama.

25. It is submitted by defence that, victim is minor,

can be tutored. The victim never deposed that sexual intercourse or penetration has taken place. There is no ingredient of sexual penetrative offence at all. The medical evidence do not show any fresh injury to her genital. The scratch injury on chest of accused is due to itching sensation as he is diabetic. The medical examination of accused do not mention age of scratch mark on his chest. Such evidence is not beyond reasonable doubt. The victim deposed she was bleeding is not supported by her medical evidence. Thus, victim's evidence is not of a sterling witness. She is not reliable. Ld. Advocate argued that, the prosecution case is highly improbable.

On the point of Medical Evidence :-

26. (i) Ld. Advocate submitted that none of the Medical Officer has deposed that, victim was admitted in the hospital. It is further submitted that, according to victim she was bleeding, but Medical Officer has not found any bleeding, is clear from her medical report. Ld. Advocates therefore submits that, victim is tutored. The old heal tear of hymen is not recent, is deposed by Doctor.

(ii) In evidence PW-7 Dr. Prachi Gavit, the Medical Officer at Civil Hospital deposed that on 08.02.2-025 she received the letter Exh.43 of Ghoti police station to conduct medical examination of victim. The victim and her mother came, consent was given by mother. Said doctor deposed that,

victim had not taken bath after the incident. There was no external injury to her. She referred victim to Gynecologist. In the cross-examination said doctor agreed that, history is recorded by her and the words 'sexual intercourse' is not used but the word sexual contact is mentioned in the history. The doctor agreed that, the 'sexual contact' is done to which part of her body is not mentioned by her. The doctor agreed that, accused touched which part of his body is also not mentioned. The doctor voluntarily deposed that victim is having difficulty in walking but this fact is not mentioned in the medical report Exh.28. The doctor deposed that she forgot to take noting that the victim was having difficulty in walking. It is seen that, history of forcible sexual contact is given to this doctor. The evidence of the victim also shows that she was having difficulty in walking and her friends took her home. Therefore, the doctor has rightly voluntarily deposed that, victim had difficulty in walking though it is not noted. This doctor referral the victim to the Gynecologist for local examination of genital. It is agreed by this doctor that, old healed tear of hymen means not recent.

This doctor also deposed that the vulva and vaginal samples were sent to the FSL through police. The blood of the victim was obtained and sent to the CA is deposed by the doctor. The CA report shows presence of semen on bed sheet, petticoat and jeans pant. However, no semen is found in the vulva and vagina swab, is deposed by said doctor. The CA reports are marked at Exh.44 to 46. Particularly, Exh.44

mentions semen is detected on the bedsheet, victim's petticoat and jeans.

In the cross-examination said doctor agreed that, blood and semen found is to be sent within 24 hours to the laboratory. It is rightly pointed that, same is not sent to the laboratory within 24 hours.

It is seen that, the uniform of the victim was not washed. It was produced before the police by her mother after four days and seized in presence of panch PW-8 Tahsildar. As it was unwashed the semen is detected on her clothes, is seen.

It is rightly pointed by defence that semen is of accused is not established in chemical analysis. The chemical analyzer examined as witness has deposed that, blood sample were not made available as called. In my view, the evidence of the victim is of importance to find out what happened with her when she went out from school and with whom she came in contact. The evidence of the victim is that, she came in contact with accused Sable Sir at his house. She has not given name of any other male than accused Sable Sir. The physical contact with her is none other than accused Sable, is her evidence. Therefore, the semen on her clothes are of another male is ruled out. There is no necessity of any C.A. report to that effect.

27. Ld. Advocate rightly pointed that, in the cross-examination the victim has deposed that, on 07th in the

evening people gathered at her home and were recording in the phone what she is saying. She also agreed that some people came to her home from distant places like Bharvir and Bhandardara. She agreed that many persons from them were not known to her grand-mother and maternal uncle. She agreed that these people took her to the police station. They reached the police station at 10.00 p.m. She was at the police station till her mother arrived. She agreed that her mother came next morning and full night she was at the police station. She also agreed that police in uniform inquired with her.

28. Ld. Advocate submitted that, under the POCSO Act the procedure is required to be followed. The statement of the victim is to be recorded at her house but in present case the victim is kept waiting in the police station at night. She is put under pressure. Her statement is not recorded at the place of her residence and by person which are police in civil dress. IT is submitted that, the victim is minor, she is only made the complainant. Her parents and grand-mother never gave any complaint. It is submitted that the people who gathered at the police station have dictated the complaint to the police. The contents of the FIR are not told by the victim but by the people. It is submitted that at the initial stage itself there is breach of conditions of the POCSO procedure. The victim is never sent back home after taking the required information for FIR is argued by defence.

29. It is accepted that, after the victim went home

from school, she did not disclose incident to her grand-mother. It is seen that, her mother is not staying with the victim therefore the mother was not available. Victim deposed that, her mother resides at Panvel and victim resides with her grand-mother at Shirewadi, Tal.Igatpuri. Hence, the victim could not tell the incident to her mother. She also deposed that, after going home, she washed her hands, legs, changed her clothes, then grand-mother gave her rice grains to clean but she did not clean them so grand-mother shouted at her and asked her to study. She was not having interest in study and her stomach was paining, is in her chief-examination. This shows that, after going home, her grand-mother shouted on her for not doing the given work of cleaning rice. In this circumstance, the victim girl will not be able to tell about the incident to the grand-mother, is seen. She has deposed that, grand-mother cooked the food this shows that grandmother was busy in cooking, therefore she gave victim to clean the rice and also shouted on the victim for not cleaning the rice. In my view a child is not able to tell about the incident to the elder, if the elder person is herself showing anger and shouting. She further deposed that, they were to sit to eat then Lalu Baba came. This shows that, now also the grand-mother was not alone for the victim to tell to her about incident. Victim deposed that, said Lalu Baba who came asked her what happened in school, whether something happened and gave her the phone to talk to accused Sable Sir. It is seen

that, some incident has occurred was confronted to the victim at this point of time. She also deposed that, she spoke to accused Sable Sir on phone and he said why she made publicity. It is then the victim stated on phone to him, what you did with me, you should not do with any other girl. It is seen that, in this manner the victim never got opportunity to tell to her mother and grand-mother. Victim deposed in chief-examination that, till then her friends, parents and people of the village arrived. She was taken to the police station and she told the police. She lodged the complaint Exh.17.

In the cross-examination victim agreed that her mother came next morning, till then she was at the police station from 10.00 p.m. This shows that, they waited for her mother to arrive. Thereafter, lodged the complaint. It is accepted that, police ought not to have kept her at the police station till her mother arrived. It is seen that, the victim after returning to the school, had already disclosed the incident to her schoolmates, she was crying in the class. The victim has already deposed in her chief-examination that, after school she was unable to walk back for home, her friends caught her and took her home. At home also her stomach was paining. The evidence shows that, the classmates had become aware that she had gone to the house of accused Sable and he has done dirty act, wrong act to her. The victim and the schoolmates are staying in a village. It is seen that, the school girls will tell their parents at home. It is the village where the news spreads fast from mouth to mouth. Hence, the parents

and village persons came to the house of victim to ask her about the incident, is seen. I do not find any unusual-ness in it.

30. PW-1 victim has admitted in cross-examination that accused No.1 Sable Sir, the Headmaster was putting strict discipline and she answered that he would beat the children who commit mistakes. She explained when girls are playing he will come and beat them. It is seen that, accused No.1 was putting fear in students by assault. So that, students will obey him. The victim girl therefore will not dare to go against his orders, is gathered.

31. PW-1 victim girl is the complainant herself and her complaint Exh.17 gives four incidents of sexual harassment to her. Each is dealt with.(i) The **first incident** as per her complaint Exh.17 that, on **13.01.2025** when she was in the school and went along with her friends **Dhaxxx, Ishxxx and Vaixxxx** to give tilgul (sesame sweets) to Head-master Sable in his office, while she was touching the feet of said Sir he touched her breast. This was also noticed by her friends but she felt that it must have happened by mistake and they did not say anything.

As per her complaint, she has deposed that, next day of Sankrant festival they all girls **Ishxxx, Dhaxxx, Vaixxxx** went to the cabin of Sable Sir for giving tilgul (sesame sweets). She

gave tilgul (sesame sweets) to Sir and touch his feet. Sir touched her breast and made her stand. Her friends noticed this as they had seen. They did not discussed on it.

It is seen that, in her statement u/s 183 of BNSS also there is mention that, on 15.01.2025 along with her friends she went to give tilgul (sesame sweets) to Sable Sir and touched his feet that time Sable Sir touched her breast, which was seen by her friends also. She thought hands is touched by mistake.

Her deposition is as per her complaint and it corroborated with her statement before Ld. Magistrate at Exh.18. In her deposition she do not mention the date 13.01.2025, only mentions about Sankrant festival when tilgul (sesame sweets) are distributed. It is a known fact that, the festival of Sankrant comes in the month of January on 14th. Next day she went to Sable Sir and gave tilgul(sesame sweets) is rightly deposed by her. Her statement before the Ld. Magistrate mentions date 15.01.2025 which is next day of Sankrant festival when the children gave tilgul (sesame sweets) to the teachers. It is accepted that, she went to give tilgul (sesame sweets) to accused No.1. It is a tradition to give tilgul (sesame sweets) to teachers on occasion of Sankrant is known to all. It is seen that, whether the tilgul (sesame sweets) was distributed on 15th i.e. next day of Sankrant or prior day of Sankrant i.e. 13th is not important. It is accepted that, she and her friends did give tilgul (sesame sweets) to the teacher accused Sable, the Head-Master my going to him

in his office. It is also accepted that, as mark of respect and to get blessings from elders there is tradition to touch the feet. Accordingly, the victim touched the feet of accused Sable and he touched her breast. It is accepted that, when the victim girl touched his feet she had feeling of respect for the accused teacher. Whereas, accused Sable, touched her breast when she was bending down to his feet and thereafter standing. It is understood that, the elderly person normally extends the hand towards the person touching his feet to prevent further act of touching feet. In this the hand of accused touched her breast was felt by her as it has touched her private part of the body. Being a child, who was having respect towards the teacher and Head-Master Sable, the victim that time ignored thinking it was by mistake. However, the touch to her breast, is felt by her and it was not expected from accused Sable Sir. Hence, she has mentioned this incident in her complaint to the police.

In the cross-examination she admitted that there was a holiday to the School of Makar Sankrant therefore next day all children, teachers were coming to the office of Sable Sir to give tilgul (sesame sweets). She also agreed that when she went to give tilgul (sesame sweets) some of the girls were ahead of her and some were behind her to give tilgul (sesame sweets). From the cross-examination also it has come in evidence that, 14th January was Makar Sankrant a holiday and next day the students went to the office of Sable Sir when

she also went to give tilgul. This shows that, the incident of touched to her breast by accused Sable which occurred when she went to give tilgul (sesame sweets) to him in his office was in presence of the other girls. The incident did occur with her. She excused that time thinking that Sable Sir hand touched her breast by mistake, is accepted because it was a student-teacher relation. She had respect for the teacher who is like a guardian. Due to this respectful relation, she ignored thinking it is by mistake. In my view, a girl child who is a student of the School, will do the same when it happens in presence of all other students. It is seen that, accused Sable Sir has taken disadvantage of her coming close to him, falling at his feet after giving tilgul (sesame sweets). The cross-examination also shows that, girls did go to accused No.1 to give tilgul (sesame sweets) for Sankrant festival. As other girls were present, hence accused No.1 will not touch her breast, is rejected. It is understood that, accused No.1 took chance of touching her breast when she was busy bending and getting up while falling at his feet. The accused with malafide intention has touched her on her chest. I do not find any reason to discard her testimony on this incident. Her testimony is inspiring confidence. In my view, there is no necessity of any corroboration.

31. The **second** incident as per her complaint Exh.17 is that, on Wednesday **29.01.2025** when she was in the class-room her class-teacher Dhongade Sir called and told her that

Sable Sir has called her in the office. She and her friend **Ishxxx** went from the class-room to the office of Sable Sir. He sent her friend back to the class, thereafter he switched off the TV of CCTV and pulled her towards him, pressed her breast with his hand and forcibly started putting his mouth into her mouth. When she started to shout he told her not to tell anyone and offered her note of Rs.100/- but she did not take it. Hence, he shouted at her and sent her back to the class. When she returned the class of Maths by accused No.2 Joshi was going on. After the Maths class got over she disclosed to her friend PW-2 S the incident done with her by Sable Sir

In her deposition before the Court she has deposed that, on 29th the class of Dongare Sir going on, Dongare sir told her that, she was called by Sable sir in the cabin. That time class of subject English was going on. Thereafter she and her friend **Ishxxx** went into the cabin of Sir. Sir send her friend **Ishxxx** to the class room. He switched off the CCTV and pulled her near him. He put his mouth into her mouth and pressed her breast. She shouted on sir. He took her aside and told her that, if she will tell anyone she will kill her and her grand-mother. Then he gave her Rs.100/- (Rs. One Hundred only) note. She did not take. He shouted at her. She left and went to the class. At that time the Maths class was going on. She told everything to her friend **PW-2 S**.

In her statement before Ld. Magistrate at Exh.18 also she has stated that, on 29th January 2025 the class of

Dongare Sir going on, Dongare sir told her that, Sable Sir called her in the office. Thereafter she and her friend **Ishxxx xxxxxx** went into the office of Sable Sir. Then Sable Sir send back **Ishxxx xxxxxx** to the class. Sable Sir switched off CCTV. He touched her breast. He put his mouth into her mouth. He gave her Rs.100/- but she refused. Then he send her back to the class. Thereafter, she disclosed the incident to her friend **Ishxxx**. Her statement u/s 183 of BNS corroborates to her evidence.

The prosecution did not examine witness Ishxxx is rightly pointed. The said witness was sent away when mouth to mouth contact done, is seen. Hence, Ishxxx is not eye witness. The deposition of victim is corroborated with her statement before Ld. Magistrate. She is not shaken in cross-examination. The accused No.1 who had touched her breast few days back now went ahead to put his mouth in her mouth. She is helpless student, nobody will dare to do anything against accused No.1, the Head-master. The victim is believed by this Court. I do not find her tutored.

32. The **third** incident as per her complaint Exh.17 is that, One day prior to her birthday i.e. on 05.02.2025 Sable Sir called her in the office and gave chocolate. Next day Sable Sir had not come early to the school. The peon of the school whose name she do not remember gave her two packets of chocolate and said that, "Sable Sir has asked her to distribute the chocolates to the students in the school". Therefore, one

packet she distributed in her class and Maxx distributed other packet in other class. After some time Sable Sir came and asked her whether she distributed the chocolates to the children.

In her deposition before the Court she deposed that, "on 05 February, Sable sir called me in the office. He said take the chocolate tomorrow is your birthday. He told me go back to the classroom. On 6th Sable sir did not come early to school. Sable sir gave two packets of chocolate to our peon uncle and peon uncle gave me those two packets of chocolates. Peon told me, Sable sir has told me to distribute one packet in my classroom and other packet to be distributed by **Maxx** in her classroom. We distributed the chocolates accordingly".

In her statement before Ld. Magistrate at Exh.18 she has stated that, on 05.02.2025 in the Computer room Sable Sir told her that, "tomorrow is her birthday, he will give her chocolates". On 06.02.2025 he did not come to school and sent two packets to her through the school peon. Therefore, she and her friend took the two packets of chocolates and distributed in her class and in the class of her friends. This shows that, her deposition is corroborated with her statement before Ld. Magistrate on this incident.

The defence argued that, the school has left over chocolates which are given to distribute on the birthday of students. In the cross-examination victim agreed that, in their school during the birthday of the student they distribute

sweets and cadbury chocolate as per their wish. It is seen that, chocolates and sweets are normally distributed in the class-room by a student on his or her birthday. The victim rightly agreed that on 15th August and 26th January also sweets and chocolates are distributed. It is seen done in every school hence the suggestion is accepted. It was suggested by defence that, left over chocolates are with the school, she rightly answered that, about it she do not know. She denied that the school gives the balance chocolates to poor students who do not bring chocolate to distribute on birthday. It is seen that, only on her birthday Sable Sir has provided the chocolates to her to distribute in the class. The suggestions of defence also shows that there were chocolates given by Sable Sir to distribute on her birthday. However, these were balance chocolates available in school. This shows that the victim girl is not deposing falsely. The accused Sable Sir was doing favour towards this victim girl by celebrating her birthday through school chocolates. The accused No.1 was not distributing chocolates of school for other children's birthday because the balance chocolates are not so much that it can be distributed for every child. Every child brings their own chocolates to distribute on their birthday is normal. Victim is a truthful witness, is seen.

33. The **fourth main** incident as per her complaint Exh.17 is that, on **07.02.2025** victim went to the school at 09.00 a.m. when accused No.1 who was standing outside the

computer room called her and asked her to come to his house when he calls her. He also told her that his house is yellow bungalow near the lane of Jain Mandir and big Banyan tree. Thereafter she went to her class-room and at 01.00 p.m. when the class was on the accused No.2 Joshi Sir told the victim that, 'her grand-mother has come to the house of accused No.1 Sable Sir and she is called over there". The victim went out of the class to the house of accused No.1 who was standing in front of the house. He waived to her by hand and called her inside, closed the door. He gave her water to drink and asked her to sit. She felt like getting giddy, that time accused No.1 caught her hand and took her into the bedroom. She was not able to think of anything. She was getting sleepy. After some time when she woke up there were no clothes on her person and there were no clothes on the person of accused No.1 also. Her toilet place was paining. Something like oil was fallen on her toilet place. When she confronted accused No.1, he said that, "he only applied the oil, she need not be afraid". She got up, wore her clothes and told accused No.1 that, 'she will inform everything to her mother'. Accused No.1 brought her out of the bedroom and made her sit and told her not to state anything to anyone, he offered her Rs.100/-. She refused to take, then he offered her Rs.500/- which she did not take. He threatened to kill her grandmother if she disclosed to anyone and send her back to school. When she returned to the school it was recess for lunch. She

was under fear. She went into the class-room and started crying. Her three class-mates (PW-3 S.B., PW-2 S, Maxx) names given by her, inquired with her the reason for crying. She disclosed the act done with her by accused No.1 Sable Sir. After a while her stomach started paining. Her toilet place was bleeding. Her friends (PW-2 S and Ishxxx) told to accuse Joshi Sir who gave Rs.50/- and her friends brought sanitary pad for her. Thereafter, accused No.2 Joshi Sir made her sit in another class-room along with her friend PW-2 S and PW-3 S.B.. When the three girls were seated in the other class-room accused No.1 Sable Sir came to them and inquired whether she is feeling well and asked if he can bring chocolate and biscuits for her and went away. After the school time got over, she went home, changed her school dress and sat to do her studies. She was having little pain in her stomach. Her grandmother cooked food. They were about to eat food and Lalu Baba came home and asked her 'what she did in school today, said that "Sable Sir wants to talk to her" and phoned Sable Sir. That time accused No.1 Sable Sir stated to her that, "ताई तु हे काय करुन ठेवले आहे, Tai, what you have done, this". She then told accused No.1 that, "Sir, what you have done with me, do not do with other girls" and he cut the phone. The said Lalu Baba was saying to her grand-mother that, "in the school girls have done something" and her grand-mother started beating her and said that, "she will go to the school tomorrow and ask". That time the parents of her class-mates and persons of the village came and inquired with her what happened. She

told everyone that, "Sable Sir has committed rape on her". She was taken to the police station to lodge complaint. ***

In her deposition it is deposed that, on 7th February there was physical training P.T. therefore she went early at 09.00 am. to school. Sable sir was standing near the computer room. He called me. Sable sir told her whether she know his house. She said no. Then he told her that his house is near Jain Temple there is a lane, there is one big banian tree and his yellow colour bungalow is over there. He told her that she should come there whenever he tells. Then she went away to the classroom. The class of Joshi Sir was going on, Joshi Sir received the phone call of Sable sir. He told Joshi Sir to send to her to his house her grandmother has come. Joshi Sir send her then she went searching the house of Sable Sir. Sable Sir was standing near his house and he by gesture of hand called her. She asked Sable Sir where is her grand mother he said she is there, asked her to take a seat here. Sir gave glass of water to her. After she drank the water she was feeling sleepy and feeling giddy. She was not knowing what to do. Sable Sir caught her hand and took her inside the bedroom. After half an hour she got consciousness, there was no clothes on her body and there was no clothes on Sable sir's body. Her toilet place was paining a lot. She felt that oil is fallen in her toilet place. She asked Sir what are you doing this. Sir said do not fear he only put the oil, because it is not entering inside. She pushed sir away from herself and wore her school dress and

went into the hall. Sir said if she tell anyone about it, he kill her and her grandmother. He gave her Rs.100/- (One Hundred only) note. She did not take so he gave me Rs.500/- (Rs. Five Hundred only) note she threw this note. Sir shouted her. From there she went to the class, at that time recess break had started. Her toilet place was paining a lot, her friends asked her what happened. Her toilet place was bleeding. She told to her friends **PW-2 S, PW-3 S.B., Ishxxx and Maxx**. Her friends told Joshi Sir that, she wanted to make phone call at my house to her mother. Joshi Sir did not give them the phone. Joshi Sir asked her why is she crying, what happened ? She told everything to Joshi Sir. Joshi Sir said, do not tell this to anybody, her honour and of school, will get damage(defame) and his job will be lost. Joshi Sir gave Rs. 50/- (Rs. Fifty Only) to her friends and told to bring pad, then she used pad. Joshi Sir made her sit in another classroom. After that Joshi sir went away then Sable Sir came. Sable Sir asked her, whether it is paining to her ? Shall he bring biscuit, chocolate for her. She said, she do not want chocolate, then he went away. It is rightly pointed that, Joshi Sir said, 'do not tell this to anybody, her honour and of school, will get damage(defame) and his job will be lost' is not in her previous statements and is deposed first time in Court.

34. In her statement before Ld. Magistrate at Exh.18 she has stated that, on 07.02.2025 at 09.00 a.m. she had physical training class, she went to school that time Sable Sir

called her near Computer room and asked whether she knows his house. He told that, there is a lane in front of Jain Mandir after going in from the lane there is one big Banyan tree and his yellow bungalow is there. At 01.00 p.m. when the Maths class of accused Joshi Sir was going on, that time Joshi Sir told her that her grand-mother has come to the house of Sable Sir and asked her to go to the house of Sable Sir thereby sent her to the house of Sable Sir. When she went, Sable Sir was standing at the door and waived to her by hand. She asked where is her grand-mother and he said, "your grand-mother is coming, wait sometime and told her to sit inside the house" is not in her previous statement. She asked about grand-mother is consisted. He gave her glass of water which she drank and went asleep. Thereafter, what happened she do not know. At about 1.30 p.m. she got conscious. Her clothes were already removed. There were no clothes on the body of Sir. "Sable Sir was on her body" is not in her previous statement, but she had no clothes and accused No.1 had no clothes is consisted. He had put oil in her toilet place. When she asked what is he doing, he did not say anything. She wore her clothes and while going he made her sit on the chair if she disclosed to anyone he will kill her and her grand-mother. He gave her Rs.100/- she did not take. So he gave her Rs.500/- which she threw away. Thereafter she went back to the school. She was having pain and was feeling giddy. Therefore, she disclosed everything to her friends PW-2 S, Ishxxx and Maxx. As it was

paining to her, her friends thought that she got periods. Therefore, they took Rs.50/- from Joshi Sir and brought pad and gave her. Joshi Sir made her sit in another class along with **PW-2 S and Ishxxx**. Her friends inquired with her and she disclosed the incident which occurred at the house of Sable Sir. Her friends asked Joshi Sir for phone but he did not give the phone. After the school got over at 06.00 p.m. they all went home.

It is seen that, as she had pain in stomach, girls thought she got periods. It is seen that, victim also was under trauma, there is no necessity that only after bleeding the pad is to be taken. The pad can be used even when stomach ache occurs as it is symptom of period. It is accepted that, the school girls of Std. VI are in growing phase, not having much understanding. They are not having any experience at age of 13 years, still they are trying to do their best for the victim's pain and trauma.

35. As per the complaint before the police that, accused No.2 Joshi Sir told the victim that, 'her grand-mother has come to the house of accused No.1 Sable Sir and she is called over there". The victim has deposed that, the class of Joshi Sir was going on. Accused Joshi Sir received the phone call of Sable Sir and sent her to his house as her grand-mother has come. This fact is also corroborated in her statement before Ld. Magistrate at Exh.18 that, when the class of Joshi Sir was going on, Joshi Sir told her that her grand-mother has

come to the house of Sable Sir and asked her to go to the house of Sable Sir. This fact is in her evidence and consistent with her previous statements. The said fact is also corroborated from the evidence of PW-2 and PW-3 who are her class-mates and were present in the class at that time, is seen.

36. PW-3 S.B. the Victim's friend /classmate, has deposed that, she was in Std VI in the school at Taked. Sable Sir is their Principal. Joshi Sir teach them Maths. Victim (S), is her friend.

She deposed that, Maths class was going on. Joshi Sir got phone call from someone. He called Victim outside. We heard he told victim "that you are called".

In the cross-examination it was put to the witness that, after getting call they heard Joshi Sir told to victim that, "you are called". It is not in her police statement, is denied by her. On perusal of her police statement which shows that, there is mention of receiving phone call by Joshi Sir in the class which is seen by present witness in the class. Her police statement also discloses that, accused Joshi Sir had said on phone that, "Sable Sir, talk". It also mentions that, reason for sending victim was to go to meet her grand-mother in the house of accused Sable Sir. However, the witness has not deposed these contents but has specifically deposed about the phone call received by Joshi Sir and having conversation on phone and

sending the victim girl out of the class thereafter. It is seen that, in her statement u/s 183 of BNSS before Ld. Magistrate at Exh.23 also the witness categorically stated that, during the Maths class accused No.2 Joshi Sir got somebody's phone and therefore, he called the victim out, thereafter the victim went away. Thus, evidence of the witness is corroborated by her statement before Ld. Magistrate on the manner how accused Joshi Sir sent the victim out of the class after receiving a phone call, which is witnessed by this student in the class. The evidence of this witness also corroborates to the evidence of the victim on this point.

This witness further deposed that, after that period they were having food. After eating food they were about to go down for playing, victim came crying. They went near her and asked her, 'why she is crying?' Victim told her, 'my stomach is paining'. She had gone to house of Sable Sir and he did dirty act (गंदे काम) with her.

Witness in her cross-examination deposed that, she cannot assign why the word "dirty act" is not in her police statement. It is seen that, her statement to the police on the other hand mentions about accused Sable Sir committing rape on victim but in the evidence the witness is only deposing that 'dirty act' was committed on victim was told by victim. In my view, this is not an omission at all. On the contrary, the wrong act was committed on the victim was disclosed to the said witness, after the victim was inquired when she was crying.

Witness also deposed that, thereafter they told Joshi sir

that victim's stomach is paining, then he gave us Rs.50/- (Rs.Fifty) to bring pad. They brought the pad and gave her. In her statement u/s 183 of BNSS before Ld. Magistrate at Exh.23 also it is stated that, afternoon recess was at 01.20 p.m. to 02.00 p.m. After eating the food they were playing. The victim was crying in the class, they asked her the reason of crying and she wanted to phone her mother. Victim disclosed to them that, Sable Sir took her home, mixed something in the water and gave her to drink. Sable Sir did bad act with her. The nature of 'bad act' is not deposed by the said witness nor it is mentioned in her statement u/s 183 of BNSS before Ld. Magistrate as to what was the bad act.

In the cross-examination the witness agreed that, she know house of Sable Sir. Witness denied that, victim was crying because she wanted to call her mother. Witness voluntarily say that they asked her whether she wants to make phone call to her mother, but she said 'no'. The only contradiction in the evidence of witness and her statement before Ld. Magistrate is that, victim said 'no' for making phone call to her mother. In my view, It shows she is afraid. Her mother is away and she is not comfortable to tell on phone.

The witness agreed that, when their class is going on the teachers keep their phones off but she voluntarily said that when the phone rings they receive it. This shows that, accused No.2 Joshi Sir received the phone in the ongoing class which

is seen by the said witness student and corroborates to the evidence of victim.

37. PW-2 "S.B.", Victim's friend/classmate, another student of the same class deposed that, she was in Std VI in school at Taked. She told name of school but do not recorded. Sable Sir was their Principal. Maths teacher was Joshi Sir. Class-teacher was Dongre Sir. **Kaxx, Laxx, Ishxxx, PW-3 S.B.** and Victim are her friends. Victim is in her class. She know her. That time Maths class was going on. Joshi sir was in the class.

Joshi Sir got phone call of someone and then he went out, he again came inside and told to victim that 'she is called'. Then she went away from the class, is seen by her. Then class of maths got over. Bell for recess for food rang. They finished their food and they were still in the classroom. When the lunch break was about to end, she came into the class. She came crying and sat on her bench. The girls in the classroom went to her. She was saying that, her stomach is paining. They asked her, 'what happened?'. She told that her stomach is paining. Witness deposed that, victim was saying that, Sable Sir did **chedchad / tampering** with her. She do not know the meaning of chedchad.

In her statement before the police also this witnessed has stated that, during the Maths class Joshi Sir received phone call and by giving reason that, grand-mother of victim has come to the house of Sable Sir, he sent her out of the

class. It is seen that, her statement before the police mentions that, accused Joshi Sir received phone call and he sent the victim to the house of accused No.2 Sable. Her statement u/s 183 of BNSS before Ld. Magistrate at Exh.21, also corroborates to her evidence about accused No.2 Joshi receiving a phone call during the Maths class and telling the victim to go to the house of accused No.1 Sable Sir. However, this witness has not deposed as per statement before Ld. Magistrate that, the excuse for sending victim out was for meeting her grand-mother. It is seen that, this witness do not depose as per her statement before Ld. Magistrate on the point that, victim told that Sable Sir removed her clothes and committed rape on her. Therefore, this witness is also taken for corroboration on the point of sending the victim out of the class-room by receiving phone call. The victim came back in the class and was crying, saying her stomach is paining, victim was saying that Sable Sir did chedchad with her. Whereas, in her statement u/s 183 of BNSS before Ld. Magistrate Exh.21 this witness has stated that victim disclosed that accused removed the clothes of victim and get rape. It is clear that the deposition of the said witness do not state accused committed rape but witness deposed that accused did chedchad / tampering with victim was disclosed by the victim when she was crying.

The evidence of said witness as well as her statement before the Ld. Magistrate also mentions that victim disclosed

that her stomach is paining. This clearly shows that after the victim returned to the class, she was crying, her stomach was paining, she was inquired by the class-mates and she disclosed wrong act has happened with her and accused No.1 Sable Sir committed the wrong act on her. It is pertinent to note that, the victim herself has deposed about the detail sexual offence which was committed on her.

In her Cross-examination, she denied that when the teachers come to the class they keep the mobile phone outside i.e. deposit the mobile phone. She denied that, during the class the teacher switched off the mobile phone. She also denied that, on that day victim went out of class for nature's call. She denied that, victim herself went out of the class and no one told her anything. She denied that, Joshi sir has not received anybody's phone call.

38. The evidence of the victim along with the evidence of her class-mates PW-2 and PW-3 establishes that, on the phone call of accused No.1 Sable Sir, the Maths teacher accused No.2 Joshi during the Maths class instructed the victim to go to the house of accused No.1 Sable Sir. It is witnessed by the students of the class that the victim was sent out of the class by accused No.2 Joshi after receiving the phone call which was attended by him in the ongoing class. The girl students PW-2 and PW-3 are in the class of victim, have rightly seen the victim crying, having pain when she returned back in the class.

39. The CCTV footage was played and it also clearly shows that, it is the CCTV Footage of New English School, Taked where accused was Headmaster are obtained in pen-drive. **The Pendrive is Article 'B'** . The panchanama of the pen-drive is prepared. It is at Exh.37. The service of said technician was given to the said school. This technician has given the certificate under 63-B of Evidence Act. It is marked as **Exh.88**.

It has come in the evidence of I.O. and from the CCTV footage that, the victim had come to the school is seen in the CCTV footage and at 01.00 p.m. she went out of the school is seen in the CCTV footage.

The CCTV footage also shows that, accused 2 while talking on the phone came out of the class room. After the conversation on phone he went inside the class room and called the victim. Accused 2 by giving signal by hand is guiding the victim where to go is seen in the CCTV footage. Camera 2 dated 07.02.2025 is played at time 13.03.21 the teacher is standing at the door of the class room on the first floor . He came out of the class room then went again inside. At time 13.03.54 he is talking by raising his hands. The girl is now going out of the class room walking to the staircase. She is alone and seen she has come down the staircase on the ground floor at time **13.05.29** and **she is running out** of the school gate till time 13.05.41 and she it out alone. This video

of camera 2 is marked as **Exh.93-B**.

At 13.5.39 the victim girl student is seen going out of school wearing blue pinafore and blue jeans pant. She is wearing a ponytail.

The Camera No. 4 video dated 07.02.2025 is played in Court. At time 13.05.39 the victim is seen running alone out of the gate of school. This video of camera 4 dated 07.02.2025 is marked as **Exh.93**.

Next video on the same camera No.4 dated 07.02.2025 time at **13.30.29** shows she is walking alone on outside road **returning** to the school gate. At time 13.30.35 while walking she joins with another girl student, and both at time 13.30.44 are entering in the school gate and seen walking together inside the school compound walking till time 13.30.50. This video of camera 4 while entering in the school is marked as **Exh.93-A**.

40. The evidence of the victim is corroborated with the CCTV footage produced by the I.O. and evidence of I.O. which clearly establishes that, accused No.2 sent the victim out of the ongoing class at **13.05.39** while other children were studying in the class. The victim is returning to the school at **13.30.29**. This shows that, for half an hour the victim was out of the school only because she was given the wrong message of accused No.1 Sable on the phone of accused No.2 Joshi.

41. Therefore there is inspiring oral evidence of the victim corroborated with evidence of her class-mates PW-2 and PW-3 as well as further corroborated from the CCTV footage. Accused No.2 Joshi has sent the victim out of the class when the other students were present for his Maths class. The phone call was received by accused No.2 Joshi and after talking on phone, the victim was sent out of the class by him.

42. The victim has deposed that, she asked Sable Sir “where is my grand mother he said, **she is there**”, is corroborated with her statement before the Ld. Magistrate wherein it has come that, she asked Sable Sir where is her grand-mother, he said **grand-mother is coming**. The victim girl went to the house of accused believing that her grand-mother has come to the house of accused is seen. Her oral evidence and statement before Ld. Magistrate shows that she also inquired with accused Sable about her grand-mother. The minor variance in deposition is that, accused said grand-mother is there and in her statement before Ld. Magistrate accused said grand-mother is coming. It is seen that, grand-mother was not in the house of accused when accused Sable took her inside the house by having conversation with her about grand-mother, is seen. It has come in her evidence and previous statements in this manner accused asked her to come inside the house and sit, is accepted.

43. It has come in her oral evidence that, Sable Sir gave her glass of water, she drank the water and was feeling sleepy and giddy. He caught her hand and took her inside the bed-room. After half an hour she got consciousness, there were no clothes on her body and there were no clothes on Sables Sir's body. She has deposed this fact as per her statement before police and it is also corroborated by her statement before Ld. Magistrate at Exh.18 wherein also it is stated that he gave her glass of water which she drank and felt asleep. At about 01.30 p.m. she got conscious. Her clothes were already removed. There were no clothes on the body of Sable Sir. The said fact is consistent in her previous statement and in her deposition.

It is seen that, victim has stated before Ld. Magistrate that, Sable Sir was on her body but this is not in her police complaint and she has not deposed this fact in her evidence. Therefore, there is no evidence on this point.

The removal of her clothes by accused No.1 is consistent. The accused No.1 also removed his clothes. This is sufficient to understand that removal of her clothes by him is to touch his private part to her. It is to manipulate with her body. The victim has not given detail act, after removal of her clothes. The child disclosed this much, is also establishes sexual assault. The medical examination of accused No.1 shows ejaculation. In every sexual physical contact, there is no necessity of full penetration. To any extent is sufficient. The

victim's circumstance shows, accused No.1 the Head-master played safe. He had to send her back to school. Hence, he was not going to ravish her fully is understood. The nail marks found on the abdomen of accused also corroborate to the prosecution.

It is her deposition that, when she got consciousness there were no clothes on her body and on the body of accused Sable Sir which fact is as per her police statement and corroborated with her statement before Ld. Magistrate. This shows that, she was undressed by accused Sable who had called her from the school. It is deposed by her that, her toilet place was paining a lot. She felt that oil is fallen in her toilet place. She asked Sir what are you doing this. Sir said, do not fear, he only put the oil because it was not entering inside. This fact is also in her statement to the police that, her toilet place was paining, something was fallen like oily on her toilet place. She confronted accused and he said that, he only applied the oil. She did not be afraid. Her evidence is corroborated by her statement u/s 183 of BNSS before the Ld. Magistrate wherein it is stated that, accused has put oil in her toilet place. When she asked him what he is doing, he did not say anything. Her evidence and previous statements clearly establish that, the girl was made to sleep, she had pain in her toilet place, she also noticed oil is fallen in her toilet place and she confronted to the accused about it. She has deposed that, oil was applied because it was not entering

inside was told to her by accused. The words 'it was not entering inside' are omitted in her previous statement before the police and before Ld. Magistrate. In my view, it is immaterial as to what answer accused gave when asked about oil which she felt on her private part. She has rightly deposed that, oil was applied because it was not entering inside. I do not find that, this is false deposition, taking into consideration the consistent deposition of the victim about all the facts which is as per her previous statements. The omission of the words 'it was not entering inside' is not fatal at all. It is seen that there was tampering with her private part by removing her clothes. The evidence of the victim girl is acceptable to this Court. She has withstood her cross-examination and is not shaken. I do not find that, on pressure of political rivalry between groups in village, a girl student is deposing against accused. A minor student will not dare to depose falsely of sexual acts of teacher and put her reputation and honor at stake.

44. It is in her evidence that, she pushed Sir away from herself and worn her school dress and went in the hall. Accused Sable Sir threatened her not to tell anyone. He gave her Rs.100/- note. She did not take it. He gave her Rs.500/- note which she threw. From there she went to her class, at that time recess break has started. Her deposition is as per her complaint to the police and it is also corroborated with her statement before Ld. Magistrate wherein it is stated that, she

wore her clothes and while going he made her sit on the chair if she disclosed to anyone he will kill her and her grandmother. He gave her Rs.100/- she did not take. So he gave her Rs.500/- which she threw away. Thereafter she went back to the school. She disclosed everything to her friends.

45. Victim further deposed that, she told to her friends. Her friends told to Joshi Sir that she wanted to make phone call to her mother at home, Joshi Sir did not give us the phone. It is seen that, in her statement before the Ld. Magistrate also she mentioned that, her friends asked Joshi sir for phone, but he did not give the phone. It is not in her police statement that, accused No.2 Joshi Sir did not give the phone to call to her mother. It is seen that, she did not depose that she asked Joshi Sir for phone to call her mother. It is seen that, she herself did not disclose anything to accused No.2 Joshi Sir but she told to her friends about the incident.

It is in the evidence of victim that, her toilet place was paining a lot, her friends asked her what happened. She deposed that, her toilet place was bleeding. In her statement before Ld. Magistrate victim has stated that, as it was paining to her, her friends thought that she got periods. Therefore, they took Rs.50/- (Rs. Fifty only) from Joshi Sir and brought pad and gave her. Victim has also deposed that, accused Joshi Sir gave Rs.50/- to her friends to bring the pad, then she used the pad.

This shows that, there was pain to the victim. Her friends took money from Joshi Sir as they thought she got periods and brought sanitary pad for her. It is seen that, the conduct of the victim's friends was very natural. Accused No.2 Joshi Sir was also making her comfortable by allowing her to sit in another class with her three friends, inquiring and helping the girls.

The evidence of the friend of victim PW-3 S.B. shows that, said friend has voluntarily asked the victim whether she wants to make phone call to her mother, but victim said no. This shows that, the friends of the victim were suggesting the victim to phone her mother after they came to know about the incident. The evidence do not show that, victim asked accused No.2 Joshi Sir for phone to call her mother and he refused. However, said Joshi Sir also as responsible teacher, did not phone her parents, is seen. It was duty of accused No.2 to reach her home safely, but he did not bother. Accused No.2 till then realized that, victim is in trauma and her grand-daughter's never came to the house of accused No.1 as told by him to her. Still accused No.2 did nothing for victim, is clear.

Victim has deposed that, accused No.2 Joshi Sir asked her why she was crying, what happened ? Joshi Sir made her sit in another classroom. It is also in her police complaint that, accused No.2 Joshi Sir made her sit in another class-room along with her two friends. It is also in her statement before Ld. Magistrate that, Joshi Sir made her sit in another class along with her two friends. This shows that, accused No.2

Joshi Sir who sent her out of the class for meeting grand-mother, now became aware that victim is crying in pain, the classmates are also approaching him for her help. The teacher Joshi Sir by now have gathered that some wrong act has occurred at house of accused No.1. The victim is telling her friends about sexual harassment, sexual act has occurred was evident to accused No.2 Joshi. Still he has not bothered to contact her parents or the police. He has posed himself to be a helpful teacher. Ld. Advocate of said accused has brought in the cross-examination of victim that, Joshi Sir has good relations with all children. It is suggested by defence that, if any incident occurs in school, Joshi Sir is first person to go ahead and take step. Victim's friend PW-2 agreed that, if there is any quarrel in school or any problem then Joshi Sir helps. It is seen that, in this case, said accused Joshi saw the pain of victim, still he did not take any step even to give her medical help. He tried to pacify the matter instead of reporting. In my view, in present case, accused No.2 Joshi Sir did not have courage to report against the Head-master, his Senior. He never felt the responsibility to victim was higher than that towards senior teacher. He at least ought to have called her parents or grand-mother or police. He deliberately concealed the issue when he himself had let the girl out of the class on directions of accused No.1. It can be understood that, initially he had no reason to suspect any malafide intention of accused No.1 who is the Head teacher. The accused No.2 Joshi was not

aware of any other incidents of bad touch, as victim herself never complained them. Hence, accused No.2 is not taken to be instigator, abettor under Section 17 of the POCSO Act. But he is guilty of offence under Section 21 of the POCSO.

46. The victim has deposed that, Joshi Sir said, do not tell this to anybody, her honour and of school, will get damage(defame) and his job will be lost. However, this fact is not in her police complaint and also not corroborated by her statement before the Ld. Magistrate. This is an important omission. So also none of the victim's friends have deposed that, Joshi Sir tried to convince the victim not to tell this to anybody, her honour and that of school, will get damaged (defame) and he will loose his job. Hence, this deposition made in the Court for the first time is not taken against accused. She has realized that, it was Joshi Sir who passed on to her the message of accused No.1 Sable about her grand-mother coming to the house of accused, when it was not so. It is seen that, accused Joshi Sir was working under accused No.1 Sable the Headmaster and he had to believe the accused Head-Master, his superior who gave wrong message about her grand-mother coming to his house, for sending the victim to his house. It is seen that, accused No.2 Joshi was in the midst of teaching Maths to the class when accused No.1 Sable gave an excuse of victim's grand-mother (guardian) and made accused No.2 Joshi send her to his house. I do not find that, accused No.2 Joshi had any idea that, victim is falsely called

out of the class by accused No.1 Sable for going to his house. I do not find that, both accused had already decided about it and there was an conspiracy. It is accepted that, had accused No.2 Joshi not received the phone call in the ongoing class, the accused No.1 would not succeed to bring the victim out of the class and the false message would not get conveyed to the victim. The reason of her grand-mother coming to the house of accused No.1 Sable was an excuse from accused No.1 Sable and it is a convincing reason to let the girl to meet her grand-mother who has come to the house of Head-Master. It is seen that, the victim went thinking that her grand-mother has come. I do not find that, accused No.2 Joshi had any malafide intention had any prior agreement with accused No.1. I also do not find any evidence to show that, accused No.2 Joshi tried to discourage the victim from disclosing the incident to anyone. In fact, when accused Joshi saw victim crying, disturbed. He allowed her to talk to her friends, made her sit in separate classroom with 2-3 friends. He also gave money to her friends as they wanted to get Sanitary Pad for her. Something was wrong was crystal clear to accused No.2 Joshi and now he himself should have contacted her mother or grand-mother, but he did not.

Medical Evidence :-

47. PW-9 Dr. Manoj Babanrao Gadekar, M.B.B.S. D.A. i.e. Diploma in Anesthesia, Medical Officer, Rural Hospital,

Igatpuri, Dist. Nashik deposed that, on 8.2.2025 was medical as CMO. He received letter of Ghoti Police Station for medical examination of victim. It is marked at **Exh.55**. The victim alongwith her mother and Ghoti Police came with this letter. I examined the victim 13 years old female. As it was a POCSO Case he referred her for Gynaec examination to Civil Hospital, Nashik. The referral slip is at **Exh.50**.

He deposed that, the victim had told him history. He denied that from appearance the victim was looking normal. He said that she was looking ill. He did not do any medical treatment. She came to him at about 10.00 a.m. He deposed that, "As it is under POCSO it is required to examine by female gynecologist only due to unavailability of female gynecologist referred to Civil Hospital, Nashik."

PW-5 Dr. Mansi Patil Gynecologist, deposed that, on 08.02.2025 she was gynecologist attached to Civil Hospital, Nashik. The victim was referred by CMO Dr. Gavit. She conducted local examination of genital parts. There were no fresh injury on labia majora, labia minora and vulva. There was no bleeding or discharge. The hymen was old healed tear. She has issued the medical certificate. It is marked at **Exh.28**. The medical samples are collected by Dr. Gavit CMO.

In the Cross-examination she deposed that, the victim came to her at 04.00 p.m. It is possible that due to physical exertion, cycling sports old healed hymen tear can occur. She did not notice any semen or sperm on her vaginal part. She did not notice any lubricant or external particals in her

vagina. She did not notice any abrasion, bruises, scratch marks on her vagina. She agreed that till today her opinion is not written by showing CA report.

48. The medical examination of the victim is carried on next day at 04.00 p.m. because the Gynecologist was not available at the Ruiral Hospital, Igatpuri. The incident has occurred at 13.00 hrs. on 07.02.2025 and till then in 24 hours the victim is bound to go for natures call. There is no sperm or semen on her vagina till then can be understood. The medical examination shows that, there is old healed hymen tear. The hymen in not intact, is clear.

PW-4 Dr. Ashwini Pawar, Medical Officer. On 08.02.2025 he was Medical Officer attached to Rural Hospital, Ghoti. received requisition letter dated 08.02.2025 of Ghoti police station for medical examination of accused-Tukaram Sable. It is marked at **Exh.25**. The consent of the person was obtained his history.

He carried his general physical examination and found presence of nail marks of injury on chest, left lower parital region and lower abdomen.

He collected the sample urethane swab, swab from discharge, blood and urine were collected. I gave opinion that “suspected of sexual intercourse on 07.02.2025 at 01.30 p.m”. I issued the medical certificate. It **Exh.26**.

In Cross-examination he deposed that, this is the first

accused examined in sexual offence. The date of examination is 8th February, 2025 and time is 05.35 p.m. which is mentioned on the requisition letter Exh.25. He did examine his genitals, is deposed in cross-examination. He agreed that, accused had given history of diabetics. He answered that, it is not necessary that the scratches on chest, nail marks can be present if the patient is suffering from diabetics. It is true that person suffering from diabetics get normal itching sometimes. He deposed that, his medical certificate do not mention whether the scratch marks, nail marks were defensive phenomenon or offensive phenomenon or accidental phenomenon or natural phenomenon.

Doctor deposed that, it is true that except nail marks no other medical evidence is found on him. It is true that the size, shape, dimension of the nail mark scratch, whether it is old or fresh is not in the medical report.

As there are nail marks on injury on the chest lower abdomen and left lower parital region of accused found in the medical evidence, Ld. Advocate argued that it is due to itching the accused has his own nail marks on his body. In the light of evidence of the victim I do not find that, nail mark injury found on the body of accused is due scratching by himself for itching. On the contrary it goes to show that when the victim has resisted, pushed him he can get the injury of nail mark on his chest and lower abdomen.

CA Report :-

49. It is rightly pointed by defence that, PW-11 Assistant Chemical Analyzer Mayur Rajshirke deposed that, there was no oil stain found on Exh.1 bed-sheet. PW-12 Assistant Chemical Analyzer Jitendra Raut also deposed that, no oil stain is found on bed-sheet, on clothes of victim and on clothes of accused in the CA report Exh.44, 45 and 46. It is seen in the evidence of expert that, He has deposed that, from 20.02.2025 till 20.05.2025 for period of three months the analysis was not taken as the cases for analysis are taken serial-wise. This shows that, the analysis of the muddemal sent to CA kept on hold for period of three months. Hence, in the CA Report there is no presence of oil found on the clothes of the victim and the bed-sheet from the house of accused. The CA reports therefore, do not show presence of oil on the clothes, is clear. In my view, applying oil to the private place of victim a minor girl cannot be ruled out. The evidence of the victim is believable to this Court that, she found oil on her private part and confronted the accused. She has rightly deposed that, oil was used for easy entering in her toilet place. I do not find it necessary to search for corroboration about presence of oil in the CA report which is a belated analysis carried by the CA. Not taking the clothes for chemical analysis within 24 to 48 hours due to pendency cannot be fatal to the prosecution. There is no necessity to doubt the testimony of the victim girl.

50. PW-11 Mayur Anandrao Rajeshirke, Asst.Chemical Analyser deposed that, on 20.02.2025 he received letter of Ghoti Police Station Exh.57. Along with letter seven sealed parcels were received. The analysis of blood and semen were conducted. On Exh.1 Bedsheet blood mixed semen was found. On Exh.4 Sando banian semen was found. On Exh,5 underwear semen was found. On Exh.6 school petticoat semen was found. On Exh.7 Full Jeans Pant semen was found. Exh.6 and 7 school petticoat and jeans are the clothes of the victim. Exh.2 shirt, Exh.3 full pant, Exh.4 Sando banian, Exh. 5 underwear are the clothes of accused. Exh.1 bed-sheet is seized from the crime scene.

The semen stain on the victims clothes and the blood mixed semen stain on the bed-sheet were sent to the DNA department for analysis. The analysis reports are prepared. The three reports are marked as **Exh.69, 70 and 71** respectively.

In the report Exh.71 there is two blood mixed semen stains found on Exh.1 bed-sheet, one blood mixed semen stain is 2 c.m. diameter and another blood mixed semen stain is 0.5 c.m. in diameter on middle portion.

On Exh.4 Sando banian there was one semen stain of 1 c.m. of diameter on front lower portion.

On Exh.5 underwear there has 3 semen stains about 2 c.m. in diameter on front middle portion.

On Exh.6 school petticoat has few semen stains ranging from 0.5 to 1.00 c.m. in diameter on front middle portion is

found.

On Exh.7 full jeans pant has few semen stains ranging from 0.5 to 1.00 c.m. in diameter on middle portion is found.

No blood is detected on Exhs. 2, 3, 4, 5, 6, and 7 clothes.

No semen detected on Exh.2 and 3 the full sleeves shirt and full pant respectively.

There is blood mixed semen detected on Exh.1 bed-sheet is of human origin.

Semen detected on Exhs.4, 5, 6, 7 i.e. sando banian, underwear, school petticoat and full jeans pant respectively are of human origin. Victim's blood Group is 'O'.

He deposed that, In it one sealed box containing five plastic containers and two test tubes which was sealed and intact were obtained.

Exh.1 is nail clipping put in the plastic container with labeled name Tukaram Govind Sable.

Exh.2 is Pubic hair put in the plastic container with labeled name Tukaram Govind Sable.

Exh.3 is urethral swab put in the plastic container with labeled name Tukaram Govind Sable.

Exh.4 is penile swab put in the plastic container with labeled name Tukaram Govind Sable.

Exh.5 is urine put in the plastic container with labeled name Tukaram Govind Sable.

Exh.6 is blood in a test tube with label name Tukaram

Govind Sable.

Exh.7 is blood in a test tube with label name Tukaram Govind Sable.

The result of analysis is blood group of Exh.6 and 7 cannot be determined as the results are **inconclusive**.

The semen found on the clothes of victim and the blood mixed semen found on the bed-sheet were sent for the further analysis and matching to the internal DNA division vide No.ML Case No.DNK 819/25. The same were forwarded by him through forwarding letter dated 13.05.2025 to my internal DNA Division. It is marked as **Exh.73**.

51. PW-12 Jitendra Pandharinath Raut, Asst. Chemical Analyzer, deposed that, on 13.05.2025 Biological department forwarded to us three exhibits vide Exh.73 letter as under -

Exh.1 is the bed-sheet from scene of crime with blood mixed semen stained cutting,

Exh.6 is from semen stained cutting from victim's petticoat (top school uniform)

Exh.7 is semen stained cutting from full Jeans Pant of victim.

They did the DNA profiling of these exhibits. We also did the DNA profiling of the medical samples of the victim which were deposited on 20.02.2025.

Report **Exh.45** in which the conclusion of result of analysis is that, mixed DNA profile is obtained from blood mixed semen detected on Exh.1 Bed-sheet.

Male DNA profile is obtained from semen detected on Victim's petticoat (top school uniform).

On the victim's full Jeans pant also mixed DNA profile is obtained from semen detected victim's full Jeans pant Exh.7. Comparative DNA profile and opinion were given after receipt of blood sample of victim and accused.

In the Cross-examination he deposed that, CA report Exh.44 mentions that, comparative DNA profile and opinion will be given after receipt of blood sample of victim and accused. Till 21.05.2025 the blood sample of victim were not received in DNA Division. Till today they are not received in DNA Division.

CA report **Exh.45.** mentions that comparative DNA profile and opinion will be given after receipt of blood sample of victim and accused.

CA report **Exh.46.** mentions that comparative DNA profile and opinion will be given after receipt of blood sample of victim and accused.

He did not give any opinion because blood sample of accused and victim did not come. It is admitted that, for doing comparison he did not receive blood samples in this case. It is true that, therefore till today he have not given opinion and conclusion, is in his cross-examination. This shows that, the semen detected of human origin is of accused is not concluded in the chemical analysis for want of blood samples. In my view CA report are for corroborative, purpose only. There is

presence of semen is found. The sole testimony of victim's is reliable. It do not shake the evidence of victim even if CA report do not clearly mention that semen is of accused.

52. The Hon'ble Apex Court citations referred make clear that, rupture of hymen is not necessary. Slightest Penetration of Penis without rupturing hymen would constitute rape. In our mater, there is rupture of hymen. Even if the hymen was not ruptured, the testimony of victim makes clear that, accused No.1 falsely called her home from the class. The said accused had earlier also touched her breast, put his mouth in her mouth. The victim girl is minor, his student. She as a child, initially thought touch to breast during touching his feet was by mistake. Thereafter, again he called her in his cabin and gave mouth to mouth kiss. The victim girl has seen accused No.1 Sable beating girl students when playing in school. The accused No.1 has portrayed himself as strict teacher in guise of discipline. Hence, no one will dare to speak against him where he is the highest authority. The victim girl therefore had meekly followed the direction of going to his house. She is a child, he has falsely called her home, on pretext of visit by grand-mother. The minor girl is not expected to take decision like adult. She has to go to school hence she has to follow the directions given by the teacher. The accused No.1 already had ulterior motive under Section 30 of POCSO. There is presumption of culpable mental state on part of accused which is not rebutted by

accused.

It is crystal clear that, accused No.1 Sable had sexual intent in getting the victim out of the class to his house. The submission of defence that, there is no eye witness who saw her from the neighborhood, or from shops around to prove she went to his house, is rejected. It is seen that, already in the class itself, there are eye witnesses who saw her leaving the class after phone call to accused No. 2 by accused No.1. The submission of defence that, accused No.1 is falsely implicated due to political rivalry and outside persons, is rejected. The victim is minor girl student. No student will depose against the teacher if no such incident ever occurred. The victim has stood the lengthy cross-examination. The defence failed to rebut the presumption. This is improbable story is argued by defence, is rejected.

I do not find that victim is deposing falsely. I find she is truthful. Her sole testimony itself is believable. She has no reason to depose falsely by make allegations of sexual offence and out her own respect and honour at stake. It is seen that, victim is staying away from parents, her grand-mother is her guardian, old person. The accused No.1 by two earlier incidents have sexually assaulted her and she was quiet. Hence, the accused No.1 is due to lust went further by calling her home from ongoing class. There is no reason to disbelieve the evidence of prosecution. The ocular evidence of victim and the school friends, is supported by the CCTV footage. The

accused No.1 Sable, the Head-master had no reason to call a girl student at his house. He had not committed full sexual intercourse, that much care is taken by him. But he had removed her clothes and his clothes by taking her in the bedroom. He applied oil in her toilet place as it (penis can be understood) was not entering, is accepted as deposed by victim. The accused had sexual intent towards victim is proved. The victim girl was repeatedly sexually assaulted by accused No.1 is proved. Hence, he went further to take her on his bed and committed penetrative sexual assault. The ingredients of Penetrative Sexual Assault under Section 4, aggravated sexual assault under section 10 of POCSO are proved. The rape on minor girl is below 16 years is also proved for offence under Section 64(2)(f) of BNS is also proved. Offence under Section 21 of POCSO is proved against accused No. 2 only. Offence under Section 17 of POCSO is not proved against accused No. 2. Hence, **Point No.1, 2, 3, 4, 5 and 7 proved** by the prosecution. Point No. 6 is not proved.

53. Here, I stopped to hear the accused on the point of sentence.

Date : 29/07/2024
Place: Nashik

(Priti Kumar Ghule)
Special Judge, Nashik.

54. The accused No.1 is produced on V.C. Accused No.2 is present before the Court. Heard, Ld. APP and Ld.

Advocate for the accused Nos. 1 and 2.

55. Ld. APP has submitted that, victim is minor girl student of his school. The position of trust is violated by accused. The students in the school are exposed to sexual offences by the teachers is unpardonable and cannot be taken with lenient view. The education of girl students due to such perpetrators is at stake. Such accused when guilty requires to be given maximum punishment. Victim is below 18 years of age. The accused is a teacher, a person in position of trust and authority. Hence, the maximum punishment for if under Section 65(1) of BNS specific mention of imprisonment for life which shall mean imprisonment for the remainder of that persons natural life and shall also be liable to fine is the enactment.

Ld. APP has submitted for life imprisonment or death to accused No.1. The offence is heinous and on the girl student who is like grand-daughter's age. It is prayed that the compensation of fine of Rs.5,00,000/- (Rupees Five lakhs) be awarded. This offence is by person having high position of Head-master in the school who is misused his position on the girl child who is student. Such offences are very heinous and serious. They do not come under the category of showing leniency at all. Hence, the maximum punishment has to be awarded

56. Ld. advocate for accused No.2 submitted that, accused No. 2 is under suspension. He is not getting salary from several months and he was already in jail for more than six months. Hence, I find fit to pay fine of Rs.68,000/- (Rupees sixty eight thousand) to accused No.2.

Accused No.2 Joshi has submitted that, he was not aware about intention of accused No.1. He did ask the victim, if she will lodge complaint but she expressed that, shall will do suicide. She said not to call her parents.

This shows that condition of victim, her mind thinking of suicide was seen by accused No.2, who is shown as a helpful teacher to students. But still he left victim on her own to suffer. He did not even escort her home nor met her grandmother. Hence, his inaction is punishable. Hence, I find fit to award maximum punishment for six month and fine of Rs.68,000/- (Rupees sixty eight thousand) to accused No.2.

57. Ld. APP submitted that, the victim girl is exploited in the school itself. There is mental and physical trauma to the victim and her family. There is also defamation to her and her family in the school and the village. The maximum punishment is must. So also compensation upto Rs.3,00,000/- (Rupees Three Lakhs) to the victim is required as per Ld. A.P.P. Smt.L.C. Chavan.

On the other hand, Ld. Advocate for the accused No.1 has submitted that, accused No.1 was in service from 22 years. There is no single disciplinary action. He has good will

in the society. Previously there was no such offence against him. He comes from agricultural background. His parents are aged. His school has given good students till now. He comes from Adivasi background having one son and one daughter who are unmarried and 48 years old wife dependent on him. Since one year he is in jail. He is not having capacity to pay huge fine amount. The minimum punishment and minimum fine is prayed for.

Accused No.1 submitted that, his father has expired, mother is old. In his career he had no single complaint against him.

58. In my view, the person good in career when acts immorally and abusive due to lust is most dangerous to society. The tender mind of the children are left with painful, bad experience due to such teachers. It will have ill effect on the development, personality of a growing child and ultimately children, the citizen of tomorrow will be a traumatized person. Such crafty individuals who put up decent face but do heinous act have to be dealt with strictly. The sanctity of Educational Institute is maligned by this accused. The consciousness of society is shaken. Stringent punishment is fit and proper so that the children are protected in Educational Institutes.

Under section 6 of the POCSO Act for which punishment is not less than 20 years, which extent to imprisonment for life

which shall mean imprisonment for the remainder of natural life of that person and fine.

The maximum punishment of life till remainder of natural life and fine amount of Rs.2,00,000/- (Rs. Two Lakhs Only) is levied for offence under Section 6 of POCSO. is fit to be paid to the victim as compensation.

Under Section 10 aggravated sexual assault of the Protection of Children from Sexual Offences Act with rigorous imprisonment for seven years and fine of Rs.25,000/- (Rs. Twenty Five Thousand Only)

Under Section 8 of the Protection of Children from Sexual Offences Act with rigorous imprisonment for five years and fine of Rs.25,000/- (Rs. Twenty five Thousand Only). It is fit to recommend compensation to the victim from DLSA. Hence, I proceed to pass the following order,

ORDER

1. Accused No.1 **Tukaram Govind Sable** is hereby convicted for the offences punishable under section 64(2)(f) of The Bhartiya Nyay Sanhita, 2023 and section 4, 6, 8, 10 of the Protection of Children from Sexual Offence Act, 2012.
2. Accused No.1 **Tukaram Govind Sable** is sentenced for offence under Section 4 and 6 of the Protection of Children from Sexual Offences Act and Section 64(2)(f) of Bhartiya Nyay Sanhita with rigorous imprisonment for life which shall mean imprisonment for the remainder of that persons natural life and fine of Rs.2,00,000/- (Rs. Two Lakhs Only) in all i/d. Simple Imprisonment for one year.

3. Accused No.1 **Tukaram Govind Sable** is sentenced for offence under Section 10 aggravated sexual assault of the Protection of Children from Sexual Offences Act with rigorous imprisonment for seven years and fine of Rs.25,000/- (Rs. Twenty Five Thousand Only) in all i/d. Simple Imprisonment for six months.
4. Accused No.1 **Tukaram Govind Sable** is sentenced for offence under Section 8 of the Protection of Children from Sexual Offences Act with rigorous imprisonment for five years and fine of Rs.25,000/- (Rs. Twenty five Thousand Only) in all i/d. Simple Imprisonment for six months.
5. Accused No.2 **Gorakhnath Maruti Joshi** is hereby convicted for the offence punishable under section 21 of The Protection of Children from Sexual Offence Act.
6. Accused No.2 Gorakhnath Maruti Joshi is hereby acquitted for the offence punishable under section 17 of The Protection of Children from Sexual Offence Act and Section 45 of Bhartiya Nyay Sanhita.
7. For conviction in offence punishable under Section 21 of The Protection of Children from Sexual Offence Act, Accused No.2 Gorakhnath Maruti Joshi is sentenced with simple imprisonment for six months and fine of Rs.68,000/- (Rs.Sixty Eight Thousand Only) i/d. Simple Imprisonment for three months.
8. Accused are given set off for the period of detention in jail already undergone by him as per Sec. 468 of the Bhartiya Nagrik Suraksha Sanhita.
9. All the sentences shall run concurrently.
10. Full fine amount be paid as compensation to the victim, after appeal period is over.

The compensation under various schemes of DLSA is recommended for victim.

11. Muddemal property clothes being worthless be destroyed after appeal period is over.
12. Copy of this judgment be provided to the accused free of cost.
13. Accused are made aware about their legal right to appeal against the conviction.
14. Special (POCSO)Case No. 93/2024 stands disposed off accordingly.

Copy of Judgment be sent to DLSA.

Date : 02/04/2026
Place: Nashik

(Priti Kumar Ghule)
Special Judge and
Addl. Sessions Judge-7, Nashik.

