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Spl. (POCSO) Case No.33/2022

CNR No.- MHRG010020982022

Exh.No. 181 /A

Part 'A'

	<u>IN THE COURT OF ADDITIONAL SESSIONS</u> <u>JUDGE, ALIBAG,</u> <u>AT-ALIBAG, DISTRICT-RAIGAD.</u> Present : S.D.Bhagat, Additional Sessions Judge. (18/06/2026) (Spl. (POCSO) Case No.33/2022)
	(FIR No.198/2022, U/s.363, 376, 376-D, 377 34 of I.P.C. and U/s.4 of The Protection of Children From Sexual Offences Act, 2012, Police Station, Revdanda)
COMPLAINANT	STATE OF MAHARASHTRA, Through Police Station Revdanda, Tal-Alibag, Dist-Raigad.
PRESENTED BY	Shri.Bahiram, Learned A.P.P. for the State.
ACCUSED	2. Pratik Ulhas Nagaonkar Age. 26 years, R/o.Ramnath, Kumbharali, Tal-Alibag, Dist-Raigad. 3. Akshay Rajendra Sasote Age.29 years, R/o.Ramnath, Kumbharali,

	Tal-Alibag, Dist-Raigad.
REPRESENTED BY	Advocate Shri.U.B.Mhatre for accused No.2 Advocate Smt.Rashmi Ghaisas for accused No.3

Part 'B'

Date of offences	09/10/2022
Date of FIR	09/10/2022
Date of Charge-sheet	09/12/2022
Date of Framing of Charges	18/09/2023
Date of commencement of evidence	26/10/2023
Date on which judgment is reserved	10/06/2026
Date of the Judgment	18/06/2026
Date of the Sentencing Order, if any	18/06/2026

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offences charges with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial of purpose of Section 428, Cr.P.C
2	Pratik Ulhas Nagaonkar	03/11/22	17/11/22	Sec. 376, 376-D r/w.34 of I.P.C.	Acquitted of the offence Sec. 376, 376-D r/w.34 of I.P.C.		14 days
3.	Akshay Rajendra Sasote	03/11/22	17/11/22				14 days.

Part 'C'

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
PW-1	Victim No.1 Exh-55	witness
PW-2	Victim's Mother -Exh.65	complainant
PW-3	Victim No.2 -Exh.67	Witness
PW-4	Dr.Umer Nisar Birwadkar -Exh.83	Medical Officer
PW-5	Rajendra Ramchandra Naik -Exh.95	Witness
PW-6	Ritesh Rohidas Pawar -Exh.97	Witness
PW-7	Pravin Dattatrey Chogale -Exh.102	Principal of Sane Guruji School, Borli
PW-8	Pramod Vasant Mhatre -Exh.112	Principal of Z.P. School, Tembhurde
PW-9	Manda Pandurang Mane Exh.123	Witness
PW-10	Karnti Sarjerao Patil Exh.125	Investigating Officer.

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
--	Not examined.	---

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
---	Not examined.	---

List Of Prosecution/Defence/Court Exhibits**A. Prosecution**

Sr.No.	Witness No.	Exhibit No.	Description
1.	P.W.1	56	164 Statement of victim No.1
2.	P.W.2	66	Complaint
3.	P.W.3	68	Previous statement
4.		69	Panchanama dt.15-10-22 (Admitted by defence)
5.		70	Seizure Panchanama dt.16-10-22 (Admitted by defence)
6.		71	Panchanama dt.17-10-22 (Admitted by defence)
7.		72	Panchanama dt.17-10-22 (Admitted by defence)
8.		73	Panchanama dt.17-10-22 (Admitted by defence)
9.		74	Spot Panchanama (Admitted by defence)
10.		75	Panchanama dt.06-11-22 (Admitted by defence)
11.		76	Panchanama dt.21-10-22 (Admitted by defence)
12.		77	Memorandum panchanama dt.06-11-22 (Admitted by defence)
13.		78	Panchanama dt.07-11-22 (Admitted by defence)
14.		79	Spot map (Admitted by defence)
15.	P.W.4	84	Medico Legal Examination Report
16.		85	Medico Legal Examination Report
17.		86	Forensic Medical Examination Report
18.	P.W.7	103	General Register

19.		104	Bonafide certificate
20.	P.W.8	113	Verified admission copy
21.		114	Form of admitting the victim to school
22.		115	Affidavit of parents of victim
23.		116	Leaving certificate
24.		126	Letter to Revdanda Police Station
25.		127	Letter to Revdanda Police Station
26.		128	Letter to Revdanda Police Station
27.		129	Letter to Grampanchayat Chaul
28.		130	Letter to Grampanchayat Revdanda
29.		131	Muddemal receipt
30.		132	Letter to Grampanchayat Chaul
31		133	Letter dt.15-10-2022
32		134	Muddemal receipt
33		135	Letter dt.16-10-2022
34		136	Letter dt.16-10-2022
35		137 & 138	Two photos
36		139 & 140	Two photos
37		141 & 142	Two photos
38		143	Running panchanama
39		144	Muddemal receipt
40		145	Pen drive receipt
41		146	Muddemal receipt
42		147	Pen drive receipt
43		148	Letter dt.5-11-2022
44		149	Letter dt.5-11-2022
45		150	Muddemal receipt
46		151	Mobile seized panchanama
47		152	Letter dt.21-10-2022
48		153	Letter dt.21-10-2022

49		154	Muddemal receipt
50		155	Letter dt.06-11-2022
51		156	Letter dt.06-11-2022
52		159	Muddemal receipt
53		160	Letter dt.06-11-2022
54		161	Letter dt.15-10-2022
55		162	Letter dt.05-11-2022
56		163	Letter dt.05-11-2022
57		164	Letter dt.14-11-2022
58		165	Letter dt.22-11-2022

B. Defence :

Sr.No.	Exhibit Number	Description
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C. Court Exhibits :

Sr.No.	Exhibit Number	Description
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D. Material Objects :

Sr.No.	Material Object Number	Description
1.	Article-A	Gray colour kurta
2.	Article-B	Gray colour petticoat
3.	Article-C	Gray colour Salwar
4.	Article-D	Aboli colour Odhani
5.	Article-E	Pink colour knicker
6.	Article-F	Yellow colour Kurta
7.	Article-G	Blue colour Salwar

8.	Article-H	Blue half yellow Odhani
9.	Article-I	Blue colour brassier
10.	Article-J	Chocolate colour knicker
11.	Article-K	Red Kurta
12.	Article-L	Orange colour Legginess
13.	Article-M	White and Sky blue colour brassier
14.	Article-N	Black colour Knicker
15.	Article-O	Black and Red colour Pendrive
16.	Article-P	Black and Red colour Pendrive
17.	Article-Q	Contains panchanama Exh.75
18.	Article-R	Contains panchanama Exh.76
19	Article-S	Blue colour Track Pant
20	Article-U	Black and Sky colour underwear
21.	Article-V	Red colour Shirt
22.	Article-W	Black, Red, Green, Gray colour track pant.
23.	Article-X	Pink colour T-Shirt
24.	Article-Y	Maroon colour underwear

JUDGMENT

(Delivered on 18/06/2026)

FACTS OF THE PROSECUTION CASE :-

The prosecution case, in brief, is that victim No.1 and victim No.2 are sisters residing at village Borli, Taluka

Murud, District Raigad. Accused No.1 Kadambari @ Shreya was acquainted with both the victims and had earlier worked with victim No.1 in a hotel situated at Borli.

02. According to the prosecution, on 09.10.2022 accused No.1 took both the victims from Borli to Alibag and thereafter to Ekvira area near Lonavala on the pretext of attending a birthday celebration. It is alleged that victim No.2 was below eighteen years of age on the date of the incident and accused No.1 had taken her away from the lawful guardianship of her parents without their consent.

03. The prosecution further alleges that during the intervening night of 09.10.2022 and 10.10.2022 accused No.1 committed penetrative sexual assault upon victim No.2 by inserting her fingers into the vagina of victim No.2 and thereby committed offences punishable under the provisions of the Protection of Children from Sexual Offences Act, 2012.

04. It is further alleged that accused Nos.2 and 3, namely Pratik and Akshay, who were acquainted with accused No.1, came to the place where the victims were staying and administered some intoxicating substance to victim No.1. Taking advantage of her condition, accused Nos.2 and 3 allegedly committed forcible sexual intercourse with victim No.1 and thereby committed offences punishable under Sections 376 and 376-D read with Section 34 of the Indian Penal Code.

05. On the basis of the report lodged by the mother of the victims, the concerned police station registered the crime. During the course of investigation, statements of witnesses were

recorded, both victims were medically examined, relevant documents were collected and, after completion of investigation, charge-sheet came to be filed against all the accused persons. After committal of the case to the Court of Sessions, charge came to be framed against the accused. The accused pleaded not guilty and claimed to be tried.

06. During the pendency of the trial, accused No.1 Kadambari @ Shreya remained continuously absent. Despite issuance of warrant and initiation of proclamation proceedings, her presence could not be secured. Consequently, by a separate order passed below Exh.174, the trial against accused No.1 came to be separated and the present judgment is therefore confined only to accused No.2 Pratik Nagaonkar and accused No.3 Akshay Satote. In order to bring home the guilt of accused Nos.2 and 3, the prosecution examined the victims, their mother and other witnesses and also relied upon documentary evidence brought on record.

07. Upon considering the rival submissions and the evidence on record, the following points arise for my determination.

POINTS FOR DETERMINATION :-

Sr.No	Points	Findings
1.	Whether the prosecution proves beyond reasonable doubt that on 09.10.2022 accused No.2 Pratik Nagaonkar and	

accused No.3 Akshay Satote, in furtherance of their common intention, committed rape upon victim No.1 and thereby committed an offence punishable under Section 376 read with Section 34 of the Indian Penal Code ?

In the
Negative.

2. Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time and place, accused No.2 Pratik Nagaonkar and accused No.3 Akshay Satote committed gang rape upon victim No.1 and thereby committed an offence punishable under Section 376-D read with Section 34 of the Indian Penal Code ?

In the
Negative.

3. What order ?

As per final
order.

REASONS

POINT NOS.1 AND 2 :-

08. As both these points arise out of the same transaction and depend upon appreciation of common evidence, they are taken up together for discussion.

Legal Position Governing Appreciation of Evidence in a Rape Case :-

09. Before advertng to the evidence on record, it would

be apposite to note the settled legal principles governing a prosecution for rape. It is now well established that conviction can be founded solely on the testimony of the prosecutrix if her evidence is of sterling quality and inspires confidence. The testimony of a victim of sexual assault stands on par with that of an injured witness and ordinarily does not require corroboration as a matter of law.

10. However, it is equally well settled that where the evidence of the prosecutrix suffers from material omissions, contradictions, improvements or circumstances creating doubt regarding the truthfulness of the accusation, the Court is under a duty to scrutinize such evidence with greater care and caution. The ultimate test remains whether the prosecution has succeeded in proving the guilt of the accused beyond reasonable doubt. Keeping these principles in mind, the evidence on record is required to be examined.

Testimony of Victim No.1 : –

11. The entire prosecution case against accused Nos.2 and 3 substantially rests upon the testimony of victim No.1. Victim No.1 deposed that she was acquainted with accused No.1 Kadambari @ Shreya as both of them had earlier worked together in a hotel at Borli. According to her, accused No.1 took her and her younger sister from Borli to Alibag and thereafter to Ekvira area. She further deposed that during the night hours accused Nos.2 and 3 entered the room where she was staying, administered some substance mixed in a cold drink, as a result of which she felt giddy and became unconscious. According to

her, while she was in such condition, accused Nos.2 and 3 committed sexual intercourse with her against her will and without her consent. She further stated that she regained consciousness only at the police station and thereafter came to know that sexual assault had been committed upon her.

12. If the testimony is read in isolation, it appears to support the prosecution case. However, criminal courts are required to evaluate not merely the examination-in-chief but the entire testimony including the cross-examination. Upon such scrutiny, several circumstances emerge which materially affect the reliability of the witness insofar as accused Nos.2 and 3 are concerned.

Material Omissions Affecting the Core of the Prosecution Case :-

13. The evidence reveals that victim No.1 had given statements before the police on different occasions and had also made a statement before the learned Magistrate under Section 164 of the Code of Criminal Procedure.

14. During cross-examination, the defence succeeded in bringing on record several omissions from those earlier statements. The witness admitted that there was no mention in her previous statements that accused No.1 had called accused Nos.2 and 3 to the place of occurrence. She further admitted that there was no mention that accused No.1 had locked her inside the room. Likewise, the alleged birthday celebration of accused No.1, administration of intoxicating substance in a cold drink, and several other facts narrated for the first time before the Court were absent from the earlier versions. Most

importantly, the witness repeatedly admitted that she was unable to assign any reason as to why such facts were absent from her previous statements.

15. These omissions cannot be dismissed as minor discrepancies occurring due to lapse of memory. They relate directly to the genesis of the occurrence and to the alleged participation of accused Nos.2 and 3 in the offence. The law draws a distinction between insignificant omissions and omissions touching the core of the prosecution case. The omissions brought on record in the present matter clearly fall in the latter category. They assume the character of material omissions amounting to contradictions and therefore substantially affect the evidentiary value of the testimony.

Evolution of the Prosecution Story Regarding the Identity of the Offenders :-

16. Another important circumstance which creates serious doubt regarding the prosecution case is the shifting version concerning the identity of the persons responsible for the alleged sexual assault.

17. The cross-examination of victim No.1 discloses that at an earlier point of time she had attributed sexual relations to one person known as "Bablya". The witness admitted that she had informed the doctor that Bablya had sexual relations with her. She further admitted that she had not informed the doctor that accused Nos.2 and 3 had committed rape upon her.

18. This aspect assumes considerable importance. The history furnished before a medical officer immediately after the occurrence is ordinarily treated as having substantial probative value because it is given at the earliest available opportunity and before there is scope for tutoring, deliberation or embellishment. Therefore, when the names of accused Nos.2 and 3 are absent from the medical history and allegations are subsequently directed against them, the Court is required to approach such evidence with caution. The prosecution has not offered any satisfactory explanation for this significant omission.

Improvements Made in Court Regarding the Role of Accused Nos.2 and 3 :-

19. The cross-examination further reveals that several facts narrated before the Court do not find place either in the police statements or in the statement recorded under Section 164 of the Code.

20. The witness admitted that there was no mention in the earlier statements that accused Nos.2 and 3 were brothers of accused No.1, that they had administered an intoxicating substance to her, that she had become unconscious because of the said substance, that accused Nos.2 and 3 had committed rape upon her while she was unconscious, or that she realised the occurrence of rape only after regaining consciousness.

21. These are not peripheral details. They constitute the very substratum of the prosecution case against accused Nos.2 and 3. The Court is conscious that every witness cannot be expected to reproduce events with photographic precision. Yet

when facts constituting the gravamen of the accusation are absent from the earliest versions and surface only at a later stage, such improvements materially impair the credibility of the witness.

Lack of Independent Corroboration :-

22. The Court is also required to examine whether the testimony of victim No.1 receives assurance from surrounding circumstances. The prosecution has not examined any independent witness who could establish the presence of accused Nos.2 and 3 with victim No.1 at the relevant time. No circumstance has been brought on record conclusively connecting accused Nos.2 and 3 with the alleged act of sexual assault.

23. The cross-examination also indicates that CCTV footage did not support the prosecution version in the manner expected. Though it is true that absence of CCTV evidence is not by itself sufficient to discard an otherwise reliable prosecution case, such circumstance becomes relevant when the principal witness herself suffers from material contradictions and improvements. Thus, the surrounding circumstances do not furnish the degree of assurance necessary for sustaining a conviction.

Evidence of Mother of the Victims :-

24. The prosecution examined the mother of the victims. Her testimony establishes that both daughters were missing from the house and that a missing report was lodged with the

police. Her evidence further establishes that both girls were subsequently traced and brought back. To that extent, her testimony lends support to the prosecution case.

25. However, she admittedly has no personal knowledge regarding the alleged sexual assault. She is not an eyewitness to the occurrence. Therefore, while her evidence corroborates the fact that the girls had gone missing, it does not provide any direct evidence connecting accused Nos.2 and 3 with the alleged offences of rape or gang rape.

Evidence of Victim No.2 :-

26. The evidence of victim No.2 shows that she accompanied victim No.1 and accused No.1 during the journey and had stayed at the places referred to by the prosecution. However, her testimony does not furnish any clear, cogent and independent corroboration regarding the specific allegation that accused Nos.2 and 3 committed rape upon victim No.1. Thus, her evidence also does not materially advance the prosecution case against accused Nos.2 and 3.

Cumulative Assessment of the Entire Evidence :-

27. When the evidence is considered in its entirety, it becomes apparent that the prosecution case against accused Nos.2 and 3 rests predominantly upon the testimony of victim No.1. Unfortunately, her evidence suffers from material omissions, substantial improvements and inconsistencies regarding the identity and role of the accused. The earliest

versions do not contain several allegations which subsequently emerged during the course of investigation and trial. The medical history also does not support the prosecution case in its present form. Independent corroboration is lacking. Viewed cumulatively, these circumstances create a reasonable doubt regarding the truthfulness of the allegations levelled against accused Nos.2 and 3.

Benefit of Doubt :-

28. It is a fundamental principle of criminal law that suspicion, however strong, cannot substitute proof. The Court cannot convict on the basis of conjectures, possibilities or moral conviction. Unless the evidence leads to the only conclusion of guilt, the accused are entitled to the benefit of doubt.

29. In the present case, the evidence falls short of the standard required for recording a conviction. The doubt arising from the material omissions, improvements and inconsistencies is neither artificial nor fanciful. It is a reasonable doubt emerging from the evidence itself. Consequently, the benefit of such doubt must necessarily ensure to accused Nos.2 and 3. Therefore, I hold that the prosecution has failed to prove beyond reasonable doubt that accused Nos.2 and 3 committed rape upon victim No.1 or that they committed gang rape in furtherance of their common intention. Accordingly, Point No.1 is answered in the Negative and Point No.2 is also answered in the Negative. Hence following order.

ORDER

1. Accused No.2 Pratik Ulhas Nagaonkar is acquitted of the offences punishable under Sections 376 and 376-D read with Section 34 of the Indian Penal Code.
2. Accused No.3 Akshay Rajendra Satote is acquitted of the offences punishable under Sections 376 and 376-D read with Section 34 of the Indian Penal Code.
3. The prosecution having failed to establish the guilt of accused Nos.2 and 3 beyond reasonable doubt, they are entitled to the benefit of doubt and are acquitted accordingly.
4. The bail bonds and surety bonds of accused Nos.2 and 3 shall stand cancelled after expiry of the appeal period.
5. However, in compliance with Section 437-A of the Code of Criminal Procedure, accused No.2 Pratik Ulhas Nagaonkar and accused No.3 Akshay Rajendra Satote shall execute personal bonds in the sum of Rs.25,000/- each with one surety each in the like amount to appear before the higher Court as and when called upon to do so, for a period of six months.
6. Muddemal property, if any, shall be preserved until trial conclusion of trial against accused No.1.
7. The trial against accused No.1 Kadambari @ Shreya having already been separated by order below Exh.174,

the present judgment shall not affect the merits of the case against accused No.1 and the proceedings against her shall continue in accordance with law upon securing her presence.

8. Record and proceedings be consigned to Record Room after due compliance.

Dictated and pronounced in open Court.

Alibag,
Date:- 18/06/2026.

(S.D.Bhagat)
Special Judge and Additional
Sessions Judge, Raigad-Alibag.