

MHRG170013812020



Presented on : 27/01/2017
Registered on : 27/01/2017
Decided on : 24/03/2026
Duration : yy/mm/days
09 01 28

IN THE COURT OF SPECIAL JUDGE AT PANVEL, DISTRICT- RAIGAD

(Presided over by Mr. S. C. Shinde)

SPECIAL CASE (POCSO) NO.209/2020

[Old Special Case (POCSO) No.07/2017]

Exh. No.214/A

Prosecution { **The State of Maharashtra**
Through Police Inspector, Panvel City
Police Station, Navi Mumbai.
Crime No.343/2016)

Represented by : Ld. Spl. P. P. Smt. P. P. Wade

Versus

Accused {
1. ~~Manoj sing Rajaram Sing Chauhan (Deceased)~~
Age: 38 yrs. Occupation- Scrap Business
R/o.- Hanuman Prasanna Building, Vikaswadi
Devadgaon, Tal- Panvel, Dist- Raigad.
2. **Binadevi Manoj sing Chauhan**
Age: 30 yrs. Occupation- Housewife
R/o.- Near Ganesh Temple, Chinchvad, Pune.
Permanent Address-Bali, Post-Bali, Rajsthan.
3. **Chhaya Mansing Tamang**
Age: 52 yrs. Occupation- Hotel Service.
R/o.- Near Bharti University, Katraj,
Dist- Pune
Permanent Address- Melamji Gram, Dist-
Sindhupal chowk, Nepal

Accused**4. Shilpa @ Majida Rahamatali Lashkar**

Age: 31 yrs. Occupation- Job

R/o.-Balaji Nagar, Dhankavali, Dist- Pune,
Permanent Address- Mograhat, Post-Bakipur,
Boidpada, Dist- South 24 Pargana, State-
West Bengal**5. Nitishkumar Ramsevak Mahto**

Age: 26 yrs. Occupation- NGO.

R/o.-Shree Sadguru Samarth Apartment,
Room No.507, Mumbra Colony, Diva East.
Permanent Address- Bagha, Post- Suhidnagar,
Dist- Begusrai, State- Bihar.**Anjanikumar Umesh Saha**

Age: 27 yrs. Occupation- NGO.

R/o. Shree Saidiya Apartment, 3rd Floor,
Room No.311, Diva East.
Permanent Address- Bagha, Post- Suhidnagar,
Dist- Begusrai, State- Bihar.**6. Aakka (Wanted Accused)**

Represented by : Ld. Advocate Mr. Ankush More for accused
No.2, Ld. Advocate Mr. Pravin Thakur for
accused No.3, Ld. Advocate Mr. Sachin
Shinde for accused No.4, Ld. Advocate Smt.
Priya Shinde for accused No.5 & 6.

Date of Offence	:	23/10/2016 to 28/10/2016
Date of FIR	:	29/10/2016
Date of Charge sheet	:	25/01/2017
Date of Framing of charges	:	19/12/2018
Date of commencement of evidence	:	12/06/2019
Date on which judgment is reserved	:	25/02/2026
Date of the Judgment	:	24/03/2026
Date of the Sentencing Order, if any	:	-----

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 CrPC
1	Manoj sing Rajaram sing Chauhan	30/10/2016	15/03/2021	U/s.109, 323, 342, 363, 366, 370, 370A, 372, 373, 376(2)(j), 504, 506, r/w 34 of the IPC, 1860 u/s.6 r/w 5(l), 17 of the POCSO Act, 2012 & u/s.4, 5, 6(1), 6(2) of Immoral Traffic (Prevention) Act, 1956	Accused are acquitted.	-----	-----
2	Binadevi Manoj sing Chauhan	30/10/2016	15/03/2021				
3	Chhaya Mansing Tamang	30/10/2016	15/03/2017				
4	Shilpa @ Majida Rahamatali Lashkar	01/11/2016	14/02/2022				
5	Nitishkumar Ramsevak Mahto	30/10/2016	24/04/2017				
6	Anjanikumar Umesh Saha	30/10/2016	24/04/2017				
7	Aakka	Wanted accused					

List of Prosecution Witnesses

Rank	Name	Nature of Evidence
PW No.1	A	Victim/Informant
PW No.2	Amey Rajesh Dudhavadkar	Medical Officer
PW No.3	Bhalchandra Dhau Dhawale	Memorandum & recovery panch
PW No.4	Dattatray Mahadeo Gore	Witness
PW No.5	Narendra Vasant Parulekar	Panch on arrest & recovery panchanama

PW No.6	Dinesh Tanaji Sable	Witness
PW No.7	Archana Tukaram Gadhve	Investigation Officer
PW No.8	Anand Narayan Shahane	Investigation Officer
PW No.9	Prakash Narayan Sonavane	Investigation Officer

List of Prosecution Exhibits

Sr. No.	Exh. Nos.	Description
1	Exh.60	Complaint
2	Exh.73	Medical Examination report of victim
3	Exh.91	Memorandum statement of accused No.1
4	Exh.92	Seized articles as per memorandum
5	Exh.93	Documents seized as per memorandum
6	Exh.94	Discovery Panchanama
7	Exh.95	Clothes seizer Panchanama of victim
8	Exh.96	Spot Panchanama
9	Exh.101	Arrested panchanama of accused No.2
10	Exh.102	Arrested panchanama of accused No.3
11	Exh.103	Arrested panchanama of accused No.4
12	Exh.104	Arrested panchanama of accused No.5
13	Exh.105	Arrested panchanama of accused No.6
14	Exh.121	Clothes seizure Panchanama of accused No.1
15	Exh.122	Mobile seizure Panchanama of accused No.5
16	Exh.123	Mobile seizure Panchanama of accused No.4
17	Exh.186	Muddemal receipt of accused No.1
18	Exh.187	Muddemal receipt of accused No.2
19	Exh.188	Muddemal receipt of accused No.4
20	Exh.189	Memorandum of accused No.1
21	Exh.190	Recovery panchanama
22	Exh.191	Muddemal receipt
23	Exh.192	Extract vehicle log register
24	Exh.193	Muddemal receipt
25	Exh.194	Muddemal receipt

26	Exh.195	Letter given to Court for granting permission to carry out test identification parade
27	Exh.196	Letter given to Tehsildar for carrying out identification parade
28	Exh.197	Letter given to FSL
29	Exh.198	Letter given to FSL

List of Defense Witnesses

Rank	Name	Nature of Evidence
Nil		

List of Defense Exhibits

Sr. No.	Exhibit Number	Description
Nil		

List of Court Witnesses

Rank	Name	Nature of Evidence
Nil		

List of Court Exhibits

Sr. No.	Exhibit Number	Description
Nil		

Material Objects

Sr. No.	Material Object No.	Description
1	A	ATM card of Vijaya Bank
2	B	Thumps Up bottle of 750 ml
3	C	Santra Company liquor of 190 ml
4	D	Bed sheet of red & pink colour
5	E	Green & black colour sack
6	F	black colour mobile of Samsung Company
7	G	Red black colour mobile of Lawa Company

8	H ₁ -H7	Educational documents of victim and accused No.5 & 6
9	I, J, K & L	Blue colour jeans of victim
10		Pink colour top of victim
11		Red colour nicker of victim
12		Green colour bag containing purple colour salwar, kurta & Odani of victim
13	M	Yellow colour bed sheet with red flowers & black design
14	N	Black colour mobile of Samsung Company of accused No.5
15	O	Mobile phone of Lava Company of accused No.4

JUDGMENT

(Delivered on 24th March 2026)

Accused are facing charges for offence punishable u/s.109, 323, 342, 363, 366, 370, 370A, 372, 373, 376(2)(j), 504, 506 r/w 34 of the Indian Penal Code, 1860 (in short “IPC”), u/s.6 r/w 5(l), 17 of the Protection of Children from Sexual Offences Act, 2012 (in short “POCSO Act”) & u/s.4, 5, 6(1), 6(2) of the Immoral Traffic (Prevention) Act, 1956 (in short “ITPA”)

1. In brief case of the prosecution is as follows-

FIR is registered by victim. As per victim, she is minor. She is resident of Bihar State and in the year 2016, she was taking education in 11th standard. She got acquainted with accused No.5 in coaching class and both fall in love. Family of both was against their relationship and father of victim was looking for bridegroom for her therefore, she & accused No.5 decided to elope and to go at Goa for work. They had also called accused No.6 to accompany them. On 23rd October 2016 at about 1:30 AM, victim & accused No.4 & 5, left Begusarai railway station

of Bihar State and on 24th October 2016 at about 11:00 PM reached in Mumbai. For the whole night, they stayed on Tilak Terminus railway station. On 25th October 2016 at about 6:00 AM, when they were on that railway station accused No.1 along with a boy came there and asked them from where they have come? They told him that they have to go to Goa by train and that train is at about 11:30 AM. Accused No.1 informed them that they can get train for Goa from Panvel which is at about 8:30 AM and they can reach early. He told them that he is going to Panvel and brought them in Panvel. At about 7:30 AM, they reached at Panvel. Accused No.5 had told to accused No.1 that he & victim has eloped and going to Goa in search of work. Then, he brought them near one tea stall where accused No.2 with her son reached there. Accused No.1 & 2 told them that if they go to Goa then police will catch them and instead of, they can work in Panvel. They refused to do so but due to fear of police they agreed. Accused No.1 asked victim to go to his house with accused No.2 and took away accused No.5 & 6 with him in search of work.

When victim had gone to the house of accused No.1 & 2, accused No.1 had made phone call on mobile phone of accused No.2. That time accused No.2 said to victim that accused No.1 has told her that accused No.5 & 6 have got work and they will come after 10 to 15 days so victim has to stay with her. Victim said that she wants to talk with accused No.5 but accused No.2 avoided to do so. In the evening at about 5:00 PM, when accused No.1 came home, victim asked him to make phone call to accused No.5 & 6 but he refused to do so. Thereafter, victim

was crying therefore, accused No.1 abused & slapped her. At about 8:00 PM, accused No.1 gave cold-drink to victim but she refused to drink it but he forced her to drink it. After consuming it, victim become unconscious and that time, accused No.1 committed forcible sexual intercourse with her.

On next day, in the morning when she woke up, she was crying therefore, accused No.1 scolded her. On that day at about 5:00 PM, accused No.2 asked her to get ready as accused No.4 was coming. Accused No.2 told her that some guests are coming and if she stays with her then police will catch her. She further told her that if she goes with the accused No.4 then she will be safe. After hearing this, victim become ready to go with sister of accused No.1. That time, accused No. also threatened victim for going with accused No.4. On that day at about 6:15 PM accused No.4 came and brought her in Pune by bus.

In Pune, victim was brought on third floor in a building and there accused No.4 threatened her as not to leave that place. On 27th October 2016 at about 1:00 PM, accused No.4 told her that accused No.5 & 6 have met with an accident and for their treatment Rs.2,00,000/- required therefore, victim as to do some work. Victim asked her to search job of house maid but accused No.4 threatened that she as has to do illicit work. On that day at about 1:30 PM, accused No.4 brought her in another building & left. When she was in one room, one person came and committed forcible sexual intercourse with her. She was shouting but no one listened. That person gave Rs.300/- to victim and asked her to give that amount to Aakka (Wanted

accused No.7). Out of that an amount Rs.80/- was given to victim. After half an hour, another person came and he also committed forcible sexual intercourse with victim and gave Rs.300/- to her. On that day in the evening at about 6:00 PM, another person came, committed forcible sexual intercourse with victim and gave Rs.1,500/- to her and asked to keep Rs.500/- with her. On next day also the person who had come on previous day came and committed forcible sexual intercourse with her and gave Rs.1,700/- to victim and said to keep Rs.700/- with her. That amount was also given by victim to Aakka who gave Rs.50/- to her. On that day at about 7:00 PM, she came to know that police are coming and the other girls in the room brought her on road. That time police caught her and brought her in the police chowki. Upon inquiry, she narrated the whole story and thereafter, FIR is registered.

2. On basis of this complaint of victim, crime No.343/2016 was registered at Panvel City Police Station, Navi Mumbai, and investigation started.
3. During investigation, accused were arrested. Their personal search was taken and mobile phones were seized. Clothes of victim & accused No.1 were seized. With the help of victim spot were seen and its panchanama was prepared. Articles found on spots were seized. As per memorandum statement of accused No.1, documents were recovered. Money given by accused No.4 to accused No.1 was recovered from accused No.1. His ATM card was seized. Bag of victim was recovered from the house of accused. Letter was given to Tehsildar for carrying out

identification parade. Victim and accused No.1 were sent for medical examination. CDRs & SDRs of accused were collected. Statement u/s.164 of the CrPC of victim was recorded. Biological samples collected were to FSL for examination. Statements u/s.161 of the CrPC of victim & witnesses were recorded. Thereafter charge-sheet is filed.

4. Accused No.1 died during trial. My Ld. Predecessor has framed charge at exh.41 for offence punishable u/s.109, 323, 342, 363, 366, 370, 370A, 372, 373, 376(2)(j), 504, 506 r/w 34 of the IPC, u/s.6 r/w 5(l), 17 of the POCSO & u/s.4, 5, 6(1), 6(2) of the ITPA. Contents of charge were read over & explained to accused in vernacular to which they pleaded not guilty and claimed trial.
5. Prosecution has examined nine witnesses. Evidence of prosecution is closed on 9th December 2025. Accused has not examined any witness in their defense. Statements u/s.313 of the CrPC of accused are recorded at exh.201, 202, 203, 204 & 205 respectively. Defense of accused is of total denial & false implication.
6. Heard Ld. Spl. P. P Smt. Wade for the State, Ld. advocate Mr. Ankush More for accused No.2, Ld. Advocate Mr. Pravin Thakur for accused No.3, 5 & 6 and Ld. Advocate Smt. Shabnam Shaikh for accused No.4.
7. Ld. Spl. P. P submitted that accused No.5 & 6 had brought victim in Mumbai and thereafter in Panvel. Victim has no documentary evidence about her age but birth date of victim is not challenged by accused therefore, age is proved. Accused

No.2 has not opposed accused No.1 when he committed rape on victim and thus, she has instigated commission of the offence of rape. In evidence, presence of accused No.2 has come on record therefore, section 109 of the IPC is proved against her.

8. Ld. Spl. P. P further submitted that victim has identified accused No.3. In FIR, name of accused No.3 is mentioned as Aakka. Victim has stated that later on, she came to know her name as Chhaya. Aakka has induced & procured victim for prostitution therefore, provisions of ITPA are applicable to her. On 25th & 26th October 2016, victim was with accused No.1 & 2. She had sufficient time to identify them therefore, test identification parade is not important. Accused No.4 was with victim during travel to Pune and thereafter for 3-4 days, she was with victim therefore, victim had sufficient time to identify her. Accused No.5 & 6 had brought her therefore, there is no dispute about their identification.
9. Ld. Spl. P. P further submitted that victim was brought by accused No.5 & 6 by practicing fraud and deception therefore, her consent is immaterial. She was secretly brought and confined for prostitution. Accused No.4 has taken Rs.30,000/- from accused No.1 for sale of victim. Medical officer has stated that possibility of sexual assault cannot be ruled out. Recovery of articles & documents of victim and accused No.5 & 6 is proved. Offence is serious in nature. Case is proved therefore, accused be convicted.

10. Ld. advocate for accused No.2 submitted that there is no chemical analyzer report about giving stupefying substance and no investigation is made in that regard. Victim has not made hue & cry when she was travelling to Pune. She has narrated story after raid. She has not made any complaint with customers. Victim had no need to go to Panvel as train was above to come within 4 to 5 hours. False story is prepared. She has lodged complaint against persons who helped her. In investigation, it is not revealed that victim had gone to reside with accused No.1 & 2 therefore, how spot Panchanama was prepared is a question. Victim has not stated anything about accused No.2 and she has not stated where she was sent by her. There is no evidence against accused No.2 therefore, she be acquitted.
11. Ld. advocate for accused No.3, 5 & 6 submitted that in Bihar State FIR u/s.363 of the IPC was registered against accused No.5 & 6 therefore, section 363 of the IPC is not applicable to them in present case otherwise it will amount to double jeopardy. Accused No.3 is falsely implicated. As per charge-sheet, Aakka is absconding. For last 10 years Aakka is absconding and her search was not taken. Accused No.3 is not Aakka and she has not taken any money.
12. Ld. advocate for accused No.3, 5 & 6 further submitted that victim was found on road and not in the building. No amount was found in possession of victim when Aakka had given amount to her for prostitution work. Victim was school going child and she was in love with accused No.5. As her father was

looking for bridegroom for her, she has run away with accused No.5. No role is played by accused No.6 and he was only accompanying them. Victim has come from Bihar to Mumbai but she has not made to any complaint during travel. If accused No.5 & 6 had to send her in immoral trafficking then they would had sent her there but already accused No.5 & 6 were in custody of the police which shows that they have not cheated victim. In FIR, name of accused No.3 is not mentioned. Name of building is not mentioned. Accused No.3, 5 & 6 are falsely implicated therefore, they be acquitted.

13. Ld. advocate for accused No.4 submitted that date of birth of victim is not confirmed and prosecution has failed to prove that victim is minor. Her age is not determined. In the year 2014, she was in 8th standard then in the year 2016 how she can be in 11th standard. On which railway station of Mumbai, they had come is not mentioned. She was aware about her acts & consequences. In the house of accused No.1, his wife & children were present therefore if victim had shouted, they would have heard her voice. This shows doubts in story of victim. During three hours travel from Panvel to Pune, she has not made hue & cry. While shifting from one building to another, she has not shouted. Name of building where she was kept is not given. When on 28th day she had got news about raid then how she will continue prostitution.
14. Ld. advocate for accused No.4 further submitted that victim was not found in building or flat and she was found on road. She has not identified the accused and identification is made

through photographs. She had ample opportunity while travelling. She has married with accused No.5 and voluntarily agreed to come with him. Accused No.1 had taken victim to Pune. During her medical examination, she was normal and no external injuries were found on her person. Accused is not identified by the witnesses. Panch has acted in 25 cases as a witness therefore his testimony is not reliable. There is contradiction in the evidence of witnesses. Statement of parents of victim is not recorded. There is lacuna in the investigation therefore, accused No.4 be acquitted.

15. Perused evidence on record. Points for determination along with my findings thereon are as follows-

Sr. No.	Points	Findings
1.	Does Prosecution prove that accused No.5 & 6 kidnapped victim?	No.
2.	Does Prosecution prove that accused wrongfully confined victim?	No.
3.	Does Prosecution prove that accused No.5 & 6 kidnapped victim with intent that she will be compelled, to marry any person against her will or she may be forced or seduced to illicit intercourse with another person?	No.
4	Does Prosecution prove that accused No.2 to 6 trafficked victim?	No.
5	Does Prosecution prove that accused No.2 to 6 sexually exploited trafficked victim?	No.
6	Does Prosecution prove that accused No.3 & 4 bough minor victim for purpose of prostitution etc.?	No.
7	Does Prosecution prove that accused No.2 assisted & abetted accused No.1 in commission of rape on victim?	No.

8	Does Prosecution prove that accused voluntarily caused hurt to victim?	No.
9	Does Prosecution prove that accused intentionally insulted & gave provocation to victim breach public peace?	No.
10	Does Prosecution prove that accused gave criminal intimidation to victim?	No.
11	Does Prosecution prove that accused were living on earning of victim earned by prostitution?	No.
12	Does Prosecution prove that accused procured victim for the purpose of prostitution?	No.
13	Does Prosecution prove that accused detained victim in premises where prostitution was carried on?	No.
14.	What Order?	Accused are acquitted

REASONS

As To Point No.1 to 13-

16. To avoid repetition of facts & evidence, all point are discussed together. In evidence PW No.1 has stated that her birth date is 1st March 2001 and she has no documentary evidence about her age. In the year 2016, she was studying in 11th standard. As per prosecution, age of PW No.1 is not much disputed therefore, her age is proved but by such argument prosecution cannot escape from liability to prove age of PW No.1 and burden is on the prosecution to prove the same.
17. In order to prove minority and to bring PW No.1 in definition of child under the POCSO Act, prosecution has to prove the fact that when incident occurred, PW No.1 was below 18 years. In FIR, PW No.1 has stated her age as 15 years. As per contents

of FIR and evidence of PW No.1, in the year 2016 she was taking education in 11th standard. If this fact is considered then at the time of incident, her age should be 17 years. There is no evidence in which age PW No.1 was admitted in 1st standard and whether or not she has completed her education till 11th standard without fail or gap.

18. If birth of date of PW No.1 is considered as 1st March 2001, then in the year 2016, she should be 15 years old. In medical examination report, PW No.1 has stated her date of birth as 3rd November 2001. In this document also birth date of PW No.1 is not clearly matching with the date of birth stated by her in her evidence.
19. No documentary evidence about age of PW No.1 is placed on record. Thus, there is controversy regarding the age of PW No.1. No doubt, defense has not much disputed the age of PW No.1 but that does not mean that burden on shoulder of prosecution is shifted on accused. If overall evidence of prosecution is considered then age of PW No.1 is not duly proved by prosecution therefore, section 363, 370(4), 370A(1), 372 and provisions of POCSO Act will not be applicable.
20. On point of rest of charges if evidence of prosecution is considered then in evidence, PW No.1 has stated that she was in love with accused No.5 therefore, on 23rd October 2016 she and accused No.5 & 6 reached in Mumbai Railway Station where accused No.1 asked them where they are going. Accused No.5 told him that they have to go to Goa. Accused No.1 said that he is also going to Goa but train to Goa is from Panvel and

brought all of them in Panvel by local train. He said as they have eloped, they can stay in Panvel for 2-3 days. Accused No.1 said that his house is nearby. After sometime accused No.2 came and they stayed there for few days. Accused No.1 said that as accused No.5 & 6 have stayed for 2-3 days, they have to work and he will search work for them. Thereafter, he took accused No.5 & 6 with him and that time she & accused No.2 waited on railway station. After sometime accused No.2 asked her to come with her to her house therefore, she went to the house of accused No.1 & 2.

21. In evidence, PW No.1 has further stated that when she reached in house of accused No.1 & 2, after 10 to 15 minutes accused No.1 called on phone of accused No.2 and that time, she asked accused No.2 as to what accused No.1 said. Then accused No.2 said that accused No.5 & 6 have got work and they have to stay there for 15 days. In the evening accused No.1 came home and that time, when she asked him about accused No.5 & 6, he said that they have stayed on work site. He further said that on next day he will send her to his sister's house at Pune.
22. In evidence, PW No.1 further stated that on that night after dinner accused No.1 compelled her to drink Pepsi whereby, she became unconscious and that time accused No.1 committed forcible sexual intercourse with her. When she was shouting, accused No.2 had slept in another room. After sexual intercourse, accused No.1 left the room. Then accused No.2 came and slept near her. She was crying therefore, accused

No.1 came and threatened that he will kill accused No.5 & 6 if she continuous crying.

23. In evidence, PW No.1 has further stated that on next day, accused No.4 came and she was sent with her in Pune. By bus, they reached in Pune and she was brought to a dirty place where women were attracting the men by gestures. She was brought on 2nd floor of a building. In a flat there were 5-6 small rooms and there were 2-3 women. She was crying and asking where she has been brought and that time, accused No.4 said that for 15 days, she has to stay here. PW No.1 asked her to make phone call to accused No.5 but accused No.4 refused to do so therefore, for whole night they stayed there.
24. In evidence, PW No.1 has further stated that on next day she insisted that she want to talk with accused No.5 therefore, accused No.4 called him and when he picked up the call, accused No.4 disconnected it. Thereafter, accused No.1 made a phone call to accused No.4 and informed her that accused No.5 & 6 have made with accident. Accused No.4 told her that they require huge money for treatment. PW No.1 felt that she as to work as maid therefore, she consented.
25. In evidence, PW No.1 has further stated that then accused No.4 brought her in another building which was five minutes away from that building. She was taken in a flat on 3rd or 4th floor. There 5-6 women were present. She was brought in one room by accused No.4. There, accused No.4 informed her that she has to stay there. After 10-15 minutes accused No.3 whom everyone was calling Aakka came there. Then accused No.3

produced her before one man and thereafter, sent her in one room. That man followed her and forcibly committed sexual intercourse with her even when she was shouting. After 5 to 10 minutes one boy came who also committed forcible sexual intercourse with her. That man & boy gave some money to her and asked her to give that money to accused No.3 therefore, she handed over that amount to accused No.3. Out of that amount Rs.50/- were given to her by accused No.3.

26. In evidence, PW No.1 has further stated that on next day one person came and committed sexual intercourse with her. That person also gave some money which was given by her to accused No.3 and out of that amount some amount was given to her by accused No.3. After sometime accused No.4 came and when, she questioned accused No.4, she started shouting at her and said that she has purchased her by giving an amount of Rs.30,000/- to accused No.1. In the evening she got news that police are coming to raid. One woman was taking her somewhere. In the midway, police met her and brought them in the police station. Police inquired with her and she narrated the whole episode. Police informed her that accused No.5 & 6 are well and they had gone in the Panvel Police Station to lodge complaint. Accused No.4 had made a phone call to them therefore; her number was with them and on location police have traced her.
27. If evidence of PW No.4 is considered then in evidence PW No.4 has stated that on 28th October 2016, he had gone on 4th floor of Bhagat Building situated at Budhawar Peth, Pune where 2-3

women were standing and they said that "नया माल है। बैठोगे क्या?" Those women showed her PW No.1. As PW No.1 was minor, he left. On 3rd November 2016 he had gone in the same building and police caught him. In that building prostitution was going on. He had identified accused No.3 & 4 in the Court. During evidence, my Ld. Predecessor after identification of accused No.3 & 4 had asked name of those accused. Record shows that accused No.3 was identified by PW No.1 as Aakka. S also, she has identified accused No.4 as Nitish, accused No.5 as Anjani and accused No.6 as Shilpa which shows that PW No.1 has made wrong identification of these accused on basis of photographs on arrest panchanamas.

28. In evidence, PW No.6 has stated that on 25th October 2016 at about 9:00 AM two boys & one girl (Accused No.5 & 6 and PW No.1) had come near his autorickshaw and made inquiry as to whether they can get work in Panvel. After few hours those boys again came near him and said whether he has seen that girl but he said that he has not seen thereafter, he brought them in Panvel Police Station.
29. In cross-examination, PW No.1 has admitted that from Panvel Station she, accused No.1, 5 & 6 had gone to the house of accused No.1. Accused No.2 had also drunk the Pepsi from which bottle Pepsi was given to her by accused No.1. She has admitted that it took 2-3 hours to reach at Pune from Panvel and it did not happen that her mouth was pressed or she was dragged when she was taken to Pune. For 10-15 minutes, she was walking for bus and in bus, other passengers were present.

30. In cross-examination, PW No.1 has further admitted that she had not shouted and did not tell anybody about the incident. After 30 minutes' walk, they reached in the building and there were houses, shops & people on the road. On one occasion only she had gone to Pune. She had given description of accused No.3 to police. She has admitted that she was in love with accused No.5 and her father was looking for bridegroom for marriage. As she do not want to marry another boy, she at her own will joined accused No.5.
31. In cross-examination, PW No.1 has further admitted that accused No.6 was going somewhere but he was in her train. Her father has filed case against the accused No.5 & 6 in Begusarai Court. She has admitted that she had not seen accused No.4 while taking money from somebody. When they alighted in Mumbai, they have made inquiry about train going to Goa and train time was 11:30 AM. She was aware that train is after 4 to 5 hours and to catch the train for Goa, they had gone to Panvel. They had not made inquiry whether there is train from Panvel to Goa. They were not threatened by anyone to come in Panvel from Mumbai. No one from them had gone to purchase ticket for Goa. No one of them had made inquiry whether at 8:00 PM there is train for Goa or not.
32. In cross-examination, PW No.1 has further admitted that from Panvel Railway Station, she alone had gone to the house of accused No.1. House of accused No.1 was in crowdly area. In his building other people were residing. For the whole day she was in that house. She was not threatened in the whole day.

When she had gone in the house of accused No.1, his two sons were present in the house and in the night, all have had dinner together. She had no giddiness after dinner. She had not informed about alleged rape to anyone till her inquiry was made by the police. She has admitted that raid was conducted by the police and woman were got and thereafter, brought in the police station that time for the first time she narrated about incident to the police. She had not stated about alleged rape by accused No.1 to the customer who had come for prostitution she has admitted that she has taken money from the persons even after, when they forcibly committed sexual intercourse with her.

33. In cross-examination PW no.6 has admitted that he can identify only those passengers on the day when they had dropped by him. His statement was recorded after 21 days.
34. If medical evidence is considered then through determined age of PW No.1 ossification test was not carried out. In evidence PW No.2 has stated that on 30th October 2016 he examined PW No.1 who narrated the history that she ran away on 23rd October 2016 with accused No.5 get married on the same day with him in one temple. Both fled from Bihar and came in Mumbai in order to go to Goa were one stranger met them and took both of them to his house. She was sexually abused by the stranger after she got unconscious by same drug in her food on 25th that stranger took her to Pune and sold her at Budhwar Peth she was sexually abused at Pune also and she was found by police on 28th October 2016.

35. PW No.2 has further stated that no injuries were found on person of PW No.1 and her external genital area was normal. He noticed old tear on hymen. As per PW No.2 there is possibility of sexual assault which cannot be overlooked however, he reserved his opinion till findings in chemical analysis report. In cross-examination he has admitted that when he had taken consent of PW No.1 she was not under any mental stress and she was in normal condition when she narrated history to him. From evidence of PW No.2 it becomes clear that no injuries were found on general examination and external genital area. Old healed tear at 2 O' clock and 7 O' clock was found. Position of tears was old healed tear at 2 O' clock and 7 O' clock. PW No.2 has expressed the opinion that evidence of sexual intercourse/assault cannot be ruled out but he has reserved his opinion till receipt of FSL report. Record shows that prosecution has not placed on record the FSL report and the same was not given to PW No.2 for his final opinion record further shows that biological samples of victim and accused were sent for chemical analysis but that best reasons known to the prosecution its report is not produced on record till decision of the case therefore, there is no confirmation which will corroborate the evidence of the PW No.1 on point of sexual intercourse with her. In evidence of PW No.1 it has come on record that accused No.1 committed forcible sexual intercourse with her in his house and accused No.2 did nothing. Accused No.1 is dead. In evidence PW no.1 has not stated the role played by the accused No.2 when forcible sexual intercourse was going on with PW No.1. No specific role

is attracted to PW no.2 in evidence PW No.1 has not stated that she was threatened by accused No.2 to go to Pune with accused No.4 or she assisted accused no.1 when he was committed rape on her. There is no allegation of forcible sexual intercourse against the accused No.5 & 6.

36. As per evidence of PW No.1 on 23rd October 2016 they had reached on railway station in Mumbai name of that railway station is not stated by the PW No.1. On that night they had stayed on railway station and on 24th October 2016 accused No.1 met them and brought in Panvel. In Panvel for few days they stayed and thereafter, she was taken by accused no.2 to her house. On that day she was sexually exploited by accused No.1 and on next day she was taken by accused No.4 to Pune. On next day she was brought in another building where she was forced for prostitution. On next day another person committed forcible sexual intercourse on that day police caught her. FIR is registered on 29th October 2016 and as per FIR information was received to police on 29th October 2016 at about 9:07 PM. As per FIR raid was conducted on 28th October 2016 and FIR is registered on 29th October 2016 it is not clarified as to why delay was caused in recording FIR when raid was conducted. On 28th October 2016. As per history narrated to PW No.2 on 25th accused No.1 took her to Pune and sold her at Budhwar Peth and she was found by police on 28th October 2016. In evidence PW No.6 has stated that on 25th October 2016 PW No.1 and accused No.5 & 6 met him on Panvel railway station when he was in his Auto and on that day he had taken accused No.5 & 6 in the Panvel City Police Station. FIR was registered

by PW No.7 but in her evidence no explanation has come on record for delay in registering FIR. PW No.8 has also stated that he has registered FIR on 29th October 2016. Prosecution has not made it clear when accused No.5 & 6 were brought in the Panvel City Police Station by accused No.6 what action was taken by the police. It is also not made clear when the victim was found by police in Pune why the offence was not registered there and why the crime was registered in Panvel City Police Station. In cross-examination PW No.7 has admitted that when she recorded the statement of PW No.1 she came to know that PW No.1 is brought from Pune by police. In cross-examination PW no.9 has admitted that PW No.1 was found to police on road. At one end it has come on record that PW no.1 was found to police on road while at other end it has come on record that raid was conducted by the police. This controversy is also not made clear by the prosecution. In evidence PW No.3 has stated that as per disclosure statement of accused No.1 certain recoveries were made but as accused No.1 is dead evidence of PW No.3 with regard to the disclosure statement and recovery with regard to the accused No.1 are not discussed here. In evidence he has stated that on 2nd November 2016 how search of accused No.1 was taken and one bag of PW No.1 only clothes were kept was found in his house so also as per disclosure statement of accused No.1 documents of PW No.1, accused No.5 & 6 which were cut and kept in plastic bag were recovered on bank of Gathi River. Bag of PW No.1 was open in his persons and her cloth were shown. He has further stated that he, PW No.1 and police had gone at Pune and spot was

shown by the PW No.1. Spot panchanama is proved in the evidence of PW no.3. He has also stated about the recovery of mobile phones of accused. Articles seized from the house of accused No.1, clothes of PW No.1 and mobiles of accused No.1 seized by the police are identified by this witness. In cross-examination he has admitted that the place from where the documents were recovered was having garbage in large quantity and documents were not in the scattered condition. Those documents were identified by him during his evidence as per prosecution those documents were contending documents of PW No.1 but during evidence those documents were not shown to PW No.1

37. In evidence PW No.5 has stated about recovery of mobile phone of accused No.4 & 5 and clothes of accused No.1 it has identified those articles. In cross-examination it has admitted that in near about 20 cases he has acted as panch. Prosecution has not established the fact of mobile communication between the accused their CDRs & SDRs are not proved therefore, there is no evidence on record to show that any of the accused were not contact with each other. Only seizure of mobile phone is not sufficient to establish the fact of communication.
38. In evidence PW No.9 has also stated about the disclosure statement and recovery at the instance of statement of accused No.1. It has also stated about the recovery of bag of PW No.1 from the house of accused No.1 and recovery of mobile phones. He has stated that PW No.1 and accused were sent for medial examination and their samples were sent for forensic

analysis. He has further stated that he had visited the flat on which PW No.1 was detained for prostitution. As per PW no.9 Rs.19,000/- were recovered from the house of accused No.1 and that amount was withdrawn by him from his account and that money was sent to accused No.4 on the account of accused No.1. He has seized ATM card from the accused No.1 but no evidence about the withdrawal of that amount by the accused No.1 from any ATM or bank is placed on record. There is nothing on record to show that the ATM card is owned by accused No.1 or any documentary evidence about the deposit of any amount by accused No.4 in the account of accused No.1.

39. In evidence PW No.9 has stated that he had given letter to the Court for granting permission to carry out test identification and on 19th November 2016 identification paraded was carried out. Prosecution has not proved the identification paraded by examining the witness who conducted the identification paraded. On point of identification if the evidence of PW No.1 is considered then photographs of arrest panchanama of accused were shown to her and she has identified accused No.3 as Aakka. PW No.3 has identified accused No.2 as Shilpa (Accused No.4). In cross-examination PW No.9 has admitted that till filing of charge-sheet Aakka was not found. In charge framed by my Ld. Predecessor Aakka is shown as absconding likewise in charge-sheet also Aakka is also shown as wanted accused. In evidence PW no.1 has stated that she had given description of Aakka to the police in cross-examination PW no.9 has admitted PW No.1 has not given description of Aakka in FIR.

40. In cross-examination PW No.9 has admitted that after PW no.1 left Bihar her parents have lodged complaint whereby offence is registered in the police station of that place. He is not recorded statement of parents of PW No.1. He has admitted that net amount was found with PW No.1 and she denied given the details about the amount in her possession. She had not given any ticket about their arrival in Panvel.
41. If the overall evidence of prosecution is considered then prosecution has not placed on record the travel tickets found in possession of PW no.1 or accused No.4 & 5. Prosecution is not examined the police to whom PW No.1 was found on road. Though lady with whom PW No.1 was found also not examined. There is no evidence to shows that any force was used to PW No.1 when she was taken to Pune. She has not made any hue and cry when she had sufficient opportunity during travel from Panvel to Pune and while she was taken by accused No.4 from one building to another. Prosecution has not examined any neighbour of accused No.1 & 2 when it is case of prosecution that PW No.1 was in the house of accused No.1 & 2 and thereafter, taken there from. There is no medical evidence on record which would have corroborate as the testimony of the PW No.1 is not reliable to the fullest to extent. It has come on record that crime is registered in Bihar against the accused No.5 & 6 but investigation officer has not taken pains to collect the documents to that effect. If any crime is registered for kidnapping and other offences against the accused No.5 & 6 then it will amount to double jeopardy. It is not made clear by the prosecution when PW No.1 was found in

Pune then why she was brought in Panvel for registered the FIR when no complaint was pending with Panvel City Police Station. PW No.1 has stated that she at her own afford joined company fo accused No.5 & 6 therefore, it cannot be said that PW No.1 was brought by them to sell her for prostitution how to carry prostitution. There is no evidence to show that PW No.1 was handed over by accused No.5 & 6 to accused No.1 & 2 for carrying out prostitution. There is discrepancies in the dates given by the witnesses. There is no evidence of FSL which will confirm the commission of the sexual assault and there is no final opinion regarding the such sexual assault. Only recovery of certain amount from the house of accused No. 1 or recovery of other articles should not be considered as incriminating against the accused. It is not proved by the prosecution that accused No.3 is the Aakka. There is no proper identification of the accused. Name of accused No.3 is not taken in FIR by PW No.1. There is no evidence to show that accused No.1, 3 & 4 engaged PW No.1 in prostitution and they were living on her earning.

42. If the testimony of prosecution witnesses is considered then their testimony is not reliable and trustworthy. Testimony of PW No.1 cannot be relied upon in absence of corroboration. The prosecution has failed to prove the necessary ingredients of section 109, 323, 342, 363, 366, 370, 370A, 372, 373, 376(2)(j), 504, 506 r/w 34 of the IPC, section 6 r/w 5(l), 17 of the POCSO & section 4, 5, 6(1), 6(2) of the ITPA. For these reasons point No.1 to 13 are answered in negative.

43. Muddemal property seized needs to be disposed of after appeal period is over. There is strong suspicion about commission of the offence by the accused but strong suspicion cannot be taken place of proof and the burden on prosecution is not shifted on the shoulder of defence to prove the offence. As prosecution has not proved foundational facts presumption also cannot be drawn. Evidence against the accused is deficient therefore, they are entitled for the acquittal. As a result, I pass following order.

ORDER

1. Accused Binadevi Manojising Chauhan, Chhaya Mansing Tamang, Shilpa @ Majida Rahamatali Lashkar, Nitishkumar Ramsevak Mahto & Anjanikumar Umesh Saha are acquitted vide section 235(1) of the CrPC for offences punishable u/s.109, 323, 342, 363, 366, 370, 370A, 372, 373, 376(2)(j), 504, 506 r/w 34 of the IPC, u/s.6 r/w 5(l), 17 of the POCSO & u/s.4, 5, 6(1), 6(2) of the ITPA in crime No.343/2016 registered at Panvel City Police Station, Navi Mumbai.
2. Accused are set at liberty.
3. Bail bonds of accused stands cancelled.
4. Surety stands discharged.
5. Marked & unmarked Muddemal property be disposed of as per rules after appeal period is over.

6. Accused are directed to furnish bail of Rs.10,000/- in compliance of section 437A of the CrPC.
7. Police inspector of Panvel City Police Station, Navi Mumbai is directed to take search of wanted accused and to file appropriate police report in that regard.

(Dictated & pronounced in open Court)

Panvel
Date -24/03/2026

Sd/-
(Mr. S. C. Shinde)
Special Judge, Panvel,
Dist.-Raigad.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word as per the original order.

Name of the Stenographer	:	Dipak B. Pawar
Name of the Court	:	Mr. S. C. Shinde Special Judge, Panvel, Dist.-Raigad.
Judgment/Order dictated declared & typed on	:	24/03/2026
Judgment/Order signed by Presiding Officer on	:	24/03/2026
Judgment/Order uploaded on	:	04/04/2026