

Presented on : 23-05-2016  
 Committed on : 06-06-2016  
 Decided on : 03-05-2017  
 Duration : 00Y 11M 14D

**IN THE COURT OF SESSIONS JUDGE, PUNE**  
**(Presided over by M. R. Purwar, Addl. Sessions Judge, Pune)**

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**Spl. Sessions Case No. 174/2016**

**Exh. No. 30**

State of Maharashtra,  
 Through P.S.O. Bundgarden P.S.  
 Pune.

... **Prosecution.**

**Versus**

Laxman Trimbak Kudwe  
 Age : 57 years, Occp : Nil,  
 R/at – Tadiwala Road, Pune.

... **Accused.**

**Offence punishable under section 354 of Indian Penal Code and  
 under section 7 punishable under section 8 of the Protection of  
 Children from Sexual Offence Act, 2012.**

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 Shri N.D. Patil, A.P.P. for the State.  
 Shri D. R. Dhokane advocate for accused.  
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**J U D G M E N T**  
 ( Delivered on 3<sup>rd</sup> May, 2017 )

Accused is facing trial for the offence punishable under section 354 of Indian Penal Code and under section 7 punishable under section 8 of the Protection of Children from Sexual Offence Act, 2012.

2] In short, it is the case of the prosecution that on 21/5/2016 informant Archana Gaikwad lodged report and alleged that on 20/5/2016 at 12.45 noon at Dalimbe Chawl, besides building no. 5, Tadiwala road, Pune and particularly in the house of accused, accused used criminal force to victim – a minor girl by pressing her breast and by making down her nicker, intending to outrage her modesty with sexual intention. Thus, offence came to be registered vide Crime No. 118/2016 with police station Bundgarden for the offence referred above.

3] Investigation started in prospective manner. Spot panchanama was prepared. Statement of the witnesses were recorded. On the basis of disclosure statement, sickle was recovered. On completion of investigation chargesheet came to be submitted before the Special Court, Pune and later on assigned to this Court for trial.

4] Charge Exh. 11 for the offence punishable under section 354 of Indian Penal Code and under section 7 punishable under section 8 of the Protection of Children from Sexual Offence Act, 2012 came to be framed against the accused. Charge read over and explained to the accused in vernacular to which he pleaded not guilty and claimed to be tried.

5] The following points arise for determination and the findings are recorded for the reasons given below-

| <u>Sr.<br/>No.</u> | <u>Points</u>                                                                                                                                                                                                                                                                                                        | <u>Findings</u>        |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1]                 | Whether the prosecution proves that on 20/5/2016 at 12.45 noon at Dalimbe Chawl, besides building no. 5, Tadiwala road, Pune and particularly in the house of accused, accused used criminal force to victim – a minor girl by pressing her breast and by making down her nicker, intending to outrage her modesty ? | .... No                |
| 2]                 | Whether the prosecution proves that on same date, time and place accused did an act of pressing breast of victim a minor girl with sexual intention which involves physical contact?                                                                                                                                 | .... No                |
| 3]                 | What order?                                                                                                                                                                                                                                                                                                          | ...As per final order. |

### REASONS

#### As to Point No. 1 and 2:-

6] In order to substantiate the accusation, the prosecution inter alia examined as many as four witnesses i.e. P.W. 1 informant and mother of victim Archana Gaikwad is at Exh-20, P.W. 2 victim is at Exh-21, P. W. 3 panch Tanaji Bore is at Exh. 22 and P.W. 4 Investigating officer Smt. Meena Tadwi is at Exh-25. Besides the prosecution has also produced Report Exh-26 The prosecution has closed evidence by pursis Exh. 28. The defence has not adduced defence evidence. The defence of the accused is of total denial and

false implication which I came to know from the line of cross examination and the answers given under section 313 of Code of Criminal Procedure. Heard learned APP for the prosecution and learned defence counsel and perused material.

7] It has come in the evidence of P. W.1 informant Archana Gaikwad that on the fateful day victim was eating chocolate and accused demanded it to her. She refused. Thereby accused gave jerk to her and she fell down. She further deposed that except this nothing happened. In fact, she denied contents of the report. It is not disputed that P.W. 2 victim is a minor girl below age of 18 years. In fact, she is 11 years old only. In chief she narrated that accused pressed her breast. However, in cross she admits that accused never pressed her breast and on the count of chocolate only quarrel took place with accused. Thus, it is clear that there is no cogent evidence on record in respect of the charge.

8] P.W. 3 panch Tanaji has deposed about preparation of the spot panchanama. P. W. NO. 4 PSI Tadwi deposed about recording of report.

9] This much is the evidence available on record. In view of the reasons referred above, it is crystal clear that the prosecution has failed to establish guilt of accused. Thus, I answer Point No. 1 and 2 in the negative and pass following order :-

**ORDER**

- 1) Accused is acquitted of the offence punishable under section 354 of Indian Penal Code and under section 7 punishable under section 8 of the Protection of Children from Sexual Offence Act, 2012 vide Section 235 (1) of Code of Criminal Procedure.
- 2) The bail bond of accused shall remain in force and effective for next six months as per the provisions of Section 437-A of Code of Criminal Procedure.

[Dictated and pronounced in open Court.]

Pune  
Dt.-03-05-2017

(M. R. Purwar)  
Additional Sessions Judge, Pune

**CERTIFICATE**

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the assigned Judgment.

|                                                |   |                                               |
|------------------------------------------------|---|-----------------------------------------------|
| Name of stenographer                           | : | Shivaji Patil – Steno HG                      |
| Court                                          | : | Shri M.R. Purwar<br>Addl. Sessions Judge Pune |
| Date                                           | : | 03-05-2017                                    |
| Judgment signed by the<br>Presiding Officer on | : | 03-05-2017                                    |
| Judgment uploaded on                           | : | 04-05-2017                                    |

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