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IN THE COURT OF THE SPECIAL JUDGE, PUNE.
AT : PUNE

(Presided over by Mrs. Prachi P. Kulkarni, Special Judge and District Judge,01, Pune under The Protection of Children from Sexual Offences Act, 2012)

EXH.NO.

SPECIAL(Child) SESSIONS CASE NO.94 OF 2013.

The State of Maharashtra,
(Through PSO Vishrambaug Police Station) ... Complainant.

Versus.

Prashant Tanaji Phalke,
Age 21 years, Occu. Nil,
R/at. S. No.3, Lane No.9,
Laxmi Nagar, Kondhwa Bk. Pune.

... Accused.

Charge for the offence punishable under Section 363, 366, 376 of IPC and under S. 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012.

Appearances :-

Shri. P. S. Jadhav, Spl. Public Prosecutor for the State.
Shri. Kamble, Advocate for the accused.

J U D G M E N T

(Delivered on 12-09-2014)

Accused Prashant Tanaji Phalke is facing this trial for commission of offence punishable under section 363, 366, 376 of the Indian Penal Code and under Section 3 r/w 4 of The Protection of

Children from Sexual Offences Act, 2012.

2] In short, the case of the prosecution is that complainant Dhananjay Genba Rodge lodged the complaint to Vishrambaug police alleging that he resides at Janta Vasahat near to Shankar temple at Parvati, Pune along with his wife Rohini, sons Sumit and Amit and daughter Shubhangi aged 17 years. It is his say that his daughter Shubhangi was attending architecture classes during the period from 3.30 p.m. to 6.30 p.m. It is his further say that on 9-5-2013, her son Sumit returned to the house at 3.30 p.m. His daughter Shubhangi gave him message that his class will be over at 7.30 p.m. So Sumit went to receive her near the class. He noticed that nobody is available near to class, so he telephoned the class teacher of Shubhangi and he came to know Shubhangi had not attended the class. Then they waited for her, searched her in the house of relatives and friends but she was not found. So he filed missing report and thereafter he came to know that accused Prashant Phalke had kidnapped his daughter and they were having love affair with each other and thus he lodged the complaint.

3] Vishrambaug police have registered CR No. 128/2013 against the accused under Section 363, 366, 376 of I.P.C. and under S. 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012 and did the investigation by recording the statements of witnesses, sending the victim girl for medical, collected all documents and filed charge sheet in the Court.

4] The record shows that accused was arrested by police on 11.5.2013 and was released on bail.

5] I framed the charge against the accused under Section 363, 366, 376 of I.P.C. and under S. 3 r/w 4 of The Protection of

Children from Sexual Offences Act, 2012. The said charge was read over and explained to the accused. Accused denied the charge and claimed to be tried.

6] To prove the case, prosecution examined victim girl Shubhangi Rodge vide Exh.16 and her father Dhananjay Rodge vide Exh.20. Both have not supported the prosecution case. Therefore, no incriminating circumstances came on record against the accused. So the prosecution closed the evidence by Purshis Exh.21 and I have not recorded the statement of accused under section 313 of the Criminal Procedure Code and order to that extent is passed below Exh.1.

7] I heard the submissions of both the sides. The following points arise for my determination. I record my points and findings together with for the reasons stated below :-

<u>POINTS</u>	<u>FINDINGS</u>
1] Does the prosecution proves that, accused in between 3.30 hours to 22.05 hours, or thereabout on 9-5-2013 to 10-5-2013 at Behare Class, Navi Peth, Pune kidnapped minor victim girl Shubhangi Dhananjay Rodge, aged 17 years i.e. below 18 years of age, from lawful guardianship of her parents and thereby committed an offence punishable under Sec. 363 of IPC ?	 No.
2] Does the prosecution further proves that accused on the above mentioned day, date, time and place and during the course of same transaction, kidnapped Kum. Shubhangi Dhananjay Rodge, minor girl 17 years of age from lawful guardianship of her father Dhanajay Genba Rodge, with intent that she may be compelled or forced or seduced to illicit intercourse or to marry with accused and thereby committed an offence punishable under S. 366 of the IPC ?	 No.

3] Does the prosecution further proves that accused on the above mentioned day, date, time and place and during the course of same transaction, in the house of maternal aunt Suman Shelar at Shelar Vasti, Talegaon Dabhade, Pune committed rape on minor victim girl Kum. Shubhangi Dhananjay Rodge against her will and thereby committed an offence punishable under Sec. 376 of IPC ?	 No.
4] Does the prosecution further proves that accused on the above mentioned day, date, time and place and during the course of same transaction, committed penetrative sexual assault on minor victim girl Kum. Shubhangi Dhananjay Rodge by penetrating his penis into the vagina of said girl and thereby committed an offence punishable under Section 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012 ?	 No.
5] What order ?	... As per final order.

REASONS

8] **POINT NOS. 1 TO 4 :-** In the evidence of PW-1 Shubhangi Dhananjay Rodge vide Exh.16. It is came on record that she had love affair with the accused and they have decided to get married. So she herself left the house, went to the house of accused and it is her say that nothing is occurred in between she and accused. It is also her further say that on 07-09-2014, she and accused got married at Alandi. She filed marriage certificate at Exh.19. As she got married with accused as she had love affair with the accused as she had gone with the accused suo motu and, therefore, she refused to state anything on record against the accused.

9] Her father PW-2 Dhananjay Genba Rodge vide Exh.20 narrated that her daughter Shubhangi ran away with the accused

and both of them have performed marriage and he had no any grudge against the accused. Even he filed complaint to police vide Exh.21. Thus both the main witnesses are not stating anything on record against the accused. It seems that both victim and accused got married with each other and, therefore, no evidence is came on record against the accused before the court. So due to lack of evidence on record, I say that the case is not proved on record and accused is entitled to acquittal. With this, I answer point Nos. 1 to 4 in the negative and proceed to pass the following order.

ORDER

- 1] The accused Prashant Tanaji Phalke is hereby acquitted, for the offence punishable under section 363, 366, 376 of the Indian Penal Code and under Section 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012, under the provisions of Section 235(1) of Criminal Procedure Code.
- 2] His bail bonds stand cancelled.
- 3] Muddemal property be disposed off after the appeal period is over.
- 4] The accused Prashant Tanaji Phalke shall execute SB and PB of Rs. 15,000/- fresh, as per Section 437-A of the Criminal Procedure Code.

Pune,

Dated/- 12-09-2014.

(Mrs. Prachi P. Kulkarni)
Special Judge, Pune (Under The Protection
of Children from Sexual Offences Act, 2012)

I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment. Name of Steno : Shri. V. V. Bannur, PA. Court Name : Mrs. P. P. Kulkarni, District Judge, 01, Pune. Judgment signed by P.O. on : 16-09-2014 Judgment uploaded on : 16-09-2014 Date of PDF file : 16-09-2014.