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SPL. CASE NO. 530/2021
CNR-MHPU01-010185-2021

Received On : 17.07.2021
Registered On : 26.07.2021
Decided On : 20.01.2025
Duration On : 03 Y. 06M.03D.

SPECIAL CASE NO. 530/2021

EXH.NO. 60

FORM No. XXXII

Part 'A'

(Title Page of Judgment)

(Para 44(i) of Chapter VI of Criminal Manual)

IN THE COURT OF SESSIONS JUDGE, PUNE, AT PUNE.

(Presided by V.V. Nashikkar, Addl. Sessions Judge)

(F.I.R.No. 348/2021 for the offences punishable under Sections 354D, 500 and 506 of Indian Penal Code and offence punishable under Section 8 and 12 of POCSO Act.

COMPLAINANT	STATE OF MAHARASHTRA Through Police Station Shirur Pune.
REPRESENTED BY	Shri. Makrand Aurangabadkar Ld. A.P.P for the State
ACCUSED	Tushar Babasaheb Rasal Age: 21 yrs., Occu : Security Guard, R/at: Danewadi, Tal. Shrigonda, Dist. Ahmednagar
REPRESENTED BY	Ld. Adv. Mr. P .S. Vakhare for accused

PART – B

[Para 44(ii) of Chapter VI of Criminal Manual]

Date of Offence	Since November, 2020 to 19.05.2021
Date of F.I.R.	20.05.2021
Date of Charge-sheet	17.07.2021

Date of Framing of Charges		23.08.2023
Date of commencement of evidence		05.12.2023
Date on which judgment is reserved		--
Date of the Judgment		20.01.2025
Date of the Sentencing order, if any		N.A.

Accused Details

Rank of the accused	Name of the accused	Date of Arrest	Date of Release on bail	Offence charges with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.PC.
1	Tushar Balasaheb Rasal	21.05.2021	23.07.2021	Sections 354-D, 500, and 506 of IPC and Sec, 8 and 12 of POCSO Act.	Acquitted	N.A.	N.A.

PART – C

[Para 44(iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

RANK	NAME	Exhibit No.	Nature of Evidence
PW-1	Kalpana Vilas Sangale	6	Informant
PW-2	Vilas Haribhau Sangale	7	Witness
PW-3	Ramesh Pandurang Choudhary	21	Panch
PW-4	Victim	30	Victim
PW-5	Nilesh Suresh Sangale	35	Witness

PW 6	Kaveri Nilesh Sangle	36	Witness
PW 7	Vikram Shivilal Jadhav	43	IO

B. Defence Witnesses, if any :

RANK	NAME	Nature of Evidence	Exh. No
--	Nil	--	--

C. Court Witnesses, if any :

RANK	NAME	Nature of Evidence	Exh. No
--	Nil	--	--

D.Court Exhibits :

Sr. No.	Exhibit Number	Description
1.	Exh.22 and 23/PW 3	Seizure panchanama dated 25.06.2021
2	Exh.44/ PW.7	Complaint (Portion Mar 'A')
3	Exh.46/ PW.7	Bonafide certificate of Victim
4	Exh.47 and 48/PW.7	Portion Mark A and B from the statement of witness Vilas Sangale
5	Exh.49 to 51 /PW.7	Portion Mark A, B and C 7 from the statement of victim.
6	Exh.52 to 55 /PW.7	Portion marked A and B from the statement of witness Nilesh Sangale
7	Exh.56/	Letter dt. 12.06.2021 issued by IO to JMFC, Shirur for

	PW.7	recording statement under section 164 of Cr.P.C.
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E. Material Objects :

Sr. No.	Exhibit Number	Description
1	Art. A to G	Photographs
2	Art. Chh	Mobile of MI Company
3	Art. M and BH	Mobile of Redmi and Vivo company

J U D G M E N T

(Delivered on 20th day of January, 2025)

Accused is facing the trial for offences punishable under Sections 354D, 500 and 506 of the Indian Penal Code (In short the 'IPC') and offence punishable under Sections 8 and 12 of Protection of Children From Sexual Offences Act, 2012 (In short the 'POCSO' Act)

2] The facts of the prosecution case in short as under:-

Since November, 2020 to 19.05.2021, at Golegaon, Tal. Shirur,, Dist. Pune, the accused having knowledge of minor age of victim pursued to make contact with her and against her will took photographs with her and when she refused to marry with him get viral those photographs from his mobile. He used to harass her by insisting to marry with him. Also he told the father of victim that he would give Rs.01 Lac for the marriage of his daughter. He also threatened them that he would not allow to marry with other person by publishing photographs and thereby sexually harassed her.

3] Therefore, informant lodged complainant against accused with the Shirur Police Station as C.R. No.348/2021 under sections 354-D, 500 and 506 of IPC and under Sections 8 and 12 of POCSO Act.

4] The record shows that, on 20/05/2021, the F.I.R. was registered under the same offences and investigation was conducted by V.S. Jadhav, the then PSI. During the investigation, he was handed over statement of victim, FIR. On the same day, he prepared seizure panchanamas and thereby seized the mobile phones from the possession of Vishal Pokharna and Babarao Nrupnarayan. He recorded the statement of witnesses. On 11.12.2023, he made correspondence to the JMFC, Shirur for recording statement under Section 164 of Cr.P.C. of victim. He wrote letter to Shivji Vidyalaya Golegaon, pune for obtaining bonafide certificate of victim.

5] After completion of investigation, he filed charge-sheet before Special Court, Shivajinagar, Pune.

6] On 23.08.2023 the charge has been framed vide (Exh.02) against the accused. It was read over and explained to him in vernacular language. He denied all the allegations of commission of offences made by the prosecution against him and came to be tried. His statement (Exh.03) was recorded to that effect. His defence is of total denial.

7] On the basis of above mentioned charges levelled against accused following points have been arisen for my determination. I

have recorded my findings against them with the reasons stated thereunder :-

S.No	Points	Findings.
1	Does the prosecution prove that accused since November, 2020 to 19.05.2021 at Goegaon, Tal. Shirur, Dist. Pune, the accused committed the offence of stalking by pursuing the victim and taking her photographs with him against her wish when she indicated clear disinterest with him and thereby committed an offence punishable under section 354-D of I.P.C?	No
2	Does the prosecution prove that, on the day, date, time and place of incident as mentioned above and during the course of same transaction the accused defamed the victim and her parents by threatening to expose her photographs if his marriage is not taken place with her and thereby committed an offence punishable under section 500 of I.P.C ?	No
3	Does the prosecution prove that, on the day, date, time and place of incident as mentioned above and during the course of same transaction the accused committed criminal intimidation by threatening her and her parents to expose photographs and thereby committed an offence punishable under section 506 of I.P.C ?	No
4	Does the prosecution prove that, on the same day, date, time and place of incident as mentioned above accused committed sexual assault on the minor victim girl and thereby committed an offence punishable under section 8 of POCSO Act?	No
5	Does the prosecution prove that, on the same day,	No

date, time and place of incident as mentioned above accused committed sexual harassment by constantly following her to compel her to marry with him and thereby committed an offence punishable under section 12 of POCSO Act?

6 What offence, if any committed by the accused ? ..None

7 What order ? As per final order.

8] In order to establish the guilt of the accused in the commission of offences, the prosecution has over all examined seven witnesses. PW.No.1 Kalpana Vilas Sangale is examined vide Exh.06. PW.No. 2 Vilas Sangale is examined at Exh.07. PW.No. 3 Ramesh Pandurang Choudhary is examined at Exh.21, PW.No. 4 minor victim is examined vide Exh.30, PW No. 5 Nilesh Suresh Sangale is examined at Exh.35, PW No.6 Kaveri Nilesh Sangale is examined at Exh.36 and PW No.7 Vikram Shivrulal Jadhav, IO is examined vide Exh.43.

9] After the completion of recording evidence on the part of the prosecution, Ld. APP has filed evidence close pursis vide Exh.57. So, statement of the accused U/s.313 of Cr.PC is recorded vide Exh.58.

10] Heard Learned APP Shri. Makrand Aurangabadkar and Shri. P. S. Vakhare, Ld. Advocate for the accused at length.

REASONS

As to Point Nos. 1 to 6 :-

11] Before entering in the arena of evidence which is relied by the prosecution witnesses the relevant legal position is required to be taken in to consideration.

Section 354D of IPC -

354D. Stalking.—(1) Any man who— (i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or (ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking: Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or (ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or (iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

Section 500 of IPC -

499. Defamation.—Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that

person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Section 506 of IPC-

506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 3 [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Section 11 of POCSO Act -

A person is said to commit sexual harassment upon a child when such person with sexual intent,— (i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or (ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or (iii) shows any object to a child in any form or media for pornographic purposes; or (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or (vi) entices a child for pornographic purposes or gives gratification therefore. Explanation,—Any question which involves "sexual intent" shall be a question of fact.

Section 12 of POCSO Act-

Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

12] Herein the case the allegations have been made against the accused in respect of commission of offence under sections 354-D, 500 and 506 of IPC and offence under section 8 and 12 of POCSO Act.

13] The prosecution has come before the Court with the specific case that Since November, 2020 to 19.05.2021, at Golegaon, Tal. Shirur,, Dist. Pune, the accused having knowledge of minor age of victim pursued to make contact with her and against her will took photographs with her and when she refused to marry with him get viral those photographs from his mobile. He used to harass her by insisting to marry with him. Also he told the father of victim that he would give Rs.01 Lac for the marriage of his daughter. He also threatened them that he would not allow to marry with other person by publishing photographs and thereby sexually harassed her.

14] When such allegations are leveled against the accused, then it is necessary for the prosecution to establish his involvement in the commission of such offences with trustworthy and acceptable evidence. As stated earlier, the prosecution has examined several witnesses to establish the guilt of the accused in the commission of all these offences. However, taking into consideration, the evidence on record I think that the prosecution did not succeed in proving the guilt of the accused beyond reasonable doubt and therefore he could not held guilty for the leveled offences against him. The reason is that though the allegations of stalking of victim by accused with intend to marry with him against her will and threatening to expose her by publishing photographs if she or her parents are not ready to allow him to marry with her, are made against accused, however none the victim or her parents have reiterated the involvement of the accused

in the commission of such offences, it was necessary for them to speak truth if in reality the alleged offences have been committed by the accused. They ought to have brought on record that the accused pursued the victim when she clearly indicated her disinterest in the alleged demand of accused to marry with her, but the victim or her parents have not deposed by putting before the Court the fact that the accused used to ask the victim to marry with him. He compelled her to take photographs with him and asked to her and her parents, if they are not allow to marry the victim with him he would expose victim by showing photographs in public and he exposed the same. All these facts are required to come before the Court disclose the overtacts of the accused and intention there behind to harass the victim during the alleged period. Unfortunately the parents and victim deposed before the Court that no such incidents were taken place. In result of that the act done by the accused did not come before the Court. On that count, it can not be said that the accused had intention to marry with the victim and for that purpose he pursued and threatened her by taking photographs on his mobile. Therefore, there is no sufficient evidence to focus on the alleged fact that the accused stalked the victim as well as threatened her to expose in public by viral the photographs.

15] In order to establish the allegations of defamation there must be sufficient and acceptable evidence on record to show that the accused defamed the victim by taking her photographs and

threatening her if she is not ready to marry with him. He will not allow her to get married with other. None the witnesses have taken this fact even after entered into the witness box before the Court. Similarly, the same thing is happened in respect of allegations of criminal intimidation committed by the accused by threatening the victim in same fashion.

16] The question would be if the alleged incident is occurred, then all these witnesses have not supported the prosecution. It seems that including victim all witnesses have keep them away from speaking truth. Under such circumstances, their evidence can not be considered as reliable evidence and relying on such evidence accused can not be held guilty for the alleged offences. It is expected that if such type of such type of offences are occurred, then witnesses have responsible for making truth of the incident. It is necessary to curtail the offences. Under such circumstances, even though the IO has deposed before the court about the incident and though he has no reason to speak against the accused but merely relying on his deposition, it can not be just and proper to held the accused guilty for the alleged offences.

17] Unfortunately, the prosecution could not prove the guilt of accused beyond reasonable doubt clean, clear and trustworthy evidence so that he would held guilty for alleged offences. Therefore, benefit of doubt goes to him due to failure of prosecution in establishing his guilt in the commission of offences as alleged. Under

such circumstances, the accused cannot be held guilty for alleged offences. So I answered points No.1 to 7 in negative and proceed to pass following order.

ORDER

1. Accused **Tushar Babasaheb Rasal** is hereby acquitted as per section 235(1) of Code of Criminal Procedure for the offences punishable under section 354D, 500 and 506 of the Indian Penal Code and under Section 8 and 12 of Protection of Children from Sexual Offences Act, 2012.
2. Bail bonds of accused stands cancelled.
3. The muddemal property i.e. mobiles be returned to its original owner on verification after expiration of an appeal period.
4. Accused shall furnish P.R. and surety bond of Rs.10,000/- as per section 437(A) of Cr.P.C.

Dt. 20/01/2025

(V.V.Nashikkar)
Additional Sessions Judge-
Pune.

CERTIFICATE

I affirm that the contents of this P.D.F file judgment are same word for word as per original Judgment.

Name of steno	:	Shri. Anis E. Deshmukh [Steno Grade-II]
Name of the Court	:	Shri V.V. Nashikkar Additional Sessions Judge, Pune.
Date of Judgment	:	20.01.2025
Judgment signed by P.O. on	:	20.01.2025
Judgment uploaded on	:	21.01.2025