

MHKO010006982025 	Received on :- 17.02.2025 Registered on :- 07.03.2025 Decided on :- 04.08.2026 Duration :- Y. M. Ds. 01 05 18
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<u>IN THE COURT OF SPECIAL JUDGE, KOLHAPUR,</u> <u>AT KOLHAPUR</u> <u>(Presided over by A I. Perampalli–Special Judge)</u>	
<u>Spl. Case Child Prot. No. 53 of 2025.</u>	<u>Exh. No.36/B.</u>
FIR No. 61/2022 Vadgaon Police Station, Dist. Kolhapur.	

Complainant	The State of Maharashtra,
Represented By	Ld. APP Smt. A. A.Patole for the State.
Accused	Shatrugna Aabaji Gejage Age : 26 yrs., Occu. : Labour R/o. Buvache Vathar, Tal-Hatkanangle, Dist-Kolhapur.
Represented By	Shri. O. V. Kamble, Ld. Adv. for accused.

Date of offence	29/01/2022
Date of FIR	29/01/2022
Date of Charge-sheet	25/02/2025

Date of Framing of Charges	16/10/2025
Date of commencement of evidence	17/03/2026
Date on which judgment is reserved	01/08/2026
Date of the Judgment	04/08/2026
Date of the Sentencing Order, if any	Accused is acquitted.

Accused Details

Sr. No.	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, Cr.PC.
1.	Shatrugna Aabaji Gejage	18/12/24	<u>On bail</u>	U/Section 363,376,376 (2)(n) of the IPC, u/Sec. 4,6,8,12 of POCSO Act.	<u>Acquitted</u>	--	---

A. List of prosecution witnesses:

Rank	Name	Exh. Nos.	Nature of Evidence
PW 1	XXXX	10	Father of the victim
PW 2	XXXX	14	Victim
PW-3	Devendra Jeevandhar Herle	18	Witness
PW-4	Sushant Ananda Shinde	21	Panch witness
PW-5	Anita Ashok Pawar	28	Investigating officer

B. Prosecution exhibits :

Sr.No.	Exh. Nos.	Description.
1	12	Complaint
2	13	FIR
3	22	Letter dt.17/1/2025 demanding panch witness
4	23	Order to act as a panch to witness No.4
5	24	Spot panchnama
6	25	Assessment extract
7	29	Order regarding investigation
8	30	Statement of the victim
9	31	Statement of PW-3 Devendra Herle
10	32	Birth Certificate

C. Defence exhibit :

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D. Court Exhibits :

1	34	Statement of the accused under Section 313 of Cr. P.C
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E. Material Objects :

Sr. No.	MO/ Article Nos.		Description
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– J U D G M E N T –

(Delivered on 4th August, 2026)

1. The accused Shatrugna Aabaji Gejge is charged for the offences punishable under Sections 363,376,376(2)(N) of the Indian Penal Code, 1860 (In short, 'IPC'), under Sections 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (In short ,“POCSO Act”).

2. **Case of the prosecution in short as follows :-**

A) The complainant is the father of the victim filed complaint on 29/01/2022 stating that, he is residing along with his family at Buvache Wathar, Tal-Hatkanangle, Dist-Kolhapur and he is working as a sugarcane cutting labour at Jawahar Sugar factory Ltd. Hupari. The victim is his younger daughter and is staying at their hut and also used to take care of little kid of his elder daughter.

B) On 29/1/2022, all they were slept in their hut. At that time, his wife woke up and she saw that, the victim was not there in her bed. She thought that, the victim had been to natural call. So they waited for her. But after considerable period, she did not return back. Hence, they took search of the victim near their vicinity. They confirmed the fact that, some unknown person kidnapped the victim hence, he lodged report at Vadgaon police station vide C. R. NO.61/2022.

3. On the basis of the said report, investigation was set into motion. I.O. went to the spot, prepared spot panchanama, snapped the photographs of the spot, recorded statement of the victim, obtained birth certificate. After completion of investigation, charge-sheet filed against accused .

4. Charge came to be framed against accused at Exh.

5. Accused pleaded not guilty and claimed to be tried.

5. Heard the arguments advanced by the Ld. APP Smt. A. A. Patole and learned Advocate Shri. O. V. Kamble for the accused.

6. Prosecution examined in all five witnesses as mentioned above in list of prosecution witness. Statement of the accused under Section 313 of Cr.P.C. was recorded at Exh.34. He has denied all the facts and circumstances. The accused has not examined any witness in his defence. Ld. APP evidence by filing pursis at Exh.33 and closed evidence of the prosecution.

7. After considering the facts of the case, defence of the accused and arguments advanced, the following points arise for my determination and my findings are recorded thereon for the reasons recorded hereinafter.

Sr.No.	Points	Findings
1.	Whether the prosecution has established	

	beyond reasonable doubt that the victim girl was minor under 18 years of age on the alleged date of incident i.e. 29/1/2022 ?	.. In affirmative as .. proved.
2.	Does prosecution prove that on 29/1/2022 at about 05.30 a.m, from the house of the informant situated near the water tank, at village Buvache Wathar, Tal-Hatkananlg,e Dist-Kolhapur, the accused kidnapped minor victim and thereby committed an offence punishable under Section 363 of the IPC ?	.. Not proved
3.	Does prosecution prove that, in between January 2022 to May 2023 at the house of Balaji Devkar Mala, at village Vejegaon, Tal-Khanapur, Dist-Sangli the accused committed rape on the minor victim and thereby committed an offence punishable under Section 376 of the IPC ?	.. Not proved
4.	Does prosecution prove that on the aforesaid date, time and place,the accused repeatedly committed rape on minor victim, who is incapable of giving consent and thereby committed an offence punishable under Section 376(2) (n) of the IPC ?	.. Not proved
5.	Does prosecution prove that on the aforesaid date, time and place, the accused committed penetrative sexual	.. Not proved

	assault on victim and thereby committed an offence punishable under Section 4 of the Protection of Children From Sexual Offences Act ?	
6.	Does prosecution prove that on the aforesaid date, time and place, the accused committed sexual assault on victim and thereby committed an offence punishable under Section 6 of the Protection of Children From Sexual Offences Act ?	.. Not proved
7.	Does prosecution prove that on the aforesaid date, time and place, the accused committed sexual assault on victim and thereby committed an offence punishable under Section 8 of the Protection of Children From Sexual Offences Act ?	.. Not proved
8.	Does prosecution prove that on the aforesaid date, time and place, the accused committed sexual harassment on minor victim and thereby committed an offence punishable under Section 12 of the Protection of Children From Sexual Offences Act ?	.. Not proved
9.	Does the prosecution prove its case beyond reasonable doubt so as to warrant conviction of the accused or whether the accused is entitled to be acquitted ?	Entitled acquittal.

10.	What order ?	.. Accused is acquitted.
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- REASONS -

As to Point No.1 :

8. It is for the prosecution to prove that, the victim girl was minor under the 18 years of age on the date of offence. The I. O. has produced on record Aadhar card of the victim which reflects that the date of birth of the victim is 17/06/2006 and this fact is not challenged in the cross examination. Hence, it is establishes that, on the date of occurrences, the victim girl was minor. Hence, I answer point No.1 as proved.

As to Point Nos.2 to 8:

9. It is for the prosecution to prove that, the accused kidnapped the victim, repeatedly committed rape and penetrative sexual assault on victim and caused sexual harassment.

10. The prosecution examined the father of the victim XXXX at Exh.10 who deposed that, in the year 2022 he was residing along with her family and the victim is his second daughter. He was working as sugarcane cutter labour and used to reside in a hut situated at *Maal*. He further deposed that, on 29/1/2022, they had been to cut the sugarcane crop and no one

were in the home. Prior to that, all they were slept in their hut. When he woke up, he saw that, the victim was not there in her bed. He thought that, the victim had been to natural call. So he waited for her. But after considerable period, she did not return back. Hence, they took search of the victim near their vicinity. Thereafter he went to his owner Devendra Kherle and he took him in the police station. He lodged report (Exh.12) in the police station regarding missing of his daughter against unknown person.

11. In his cross examination, he deposed that, he is illiterate and cannot read and write. As the victim was not at home, he told this fact to his owner Devendra and as per say of his owner, he lodged report in the police station. He only made his thumb mark on the complaint and cannot read over the contents of the complaint and his owner had also not read over the contents of it to him. He did not know the age and date of birth of his daughter. The police has written down estimated age of victim in the complaint. At the time of conducting panchnama, he did not provide any information to the police. Lastly he stated that, the victim performed her marriage with the accused after completion of her 18 years of age.

12. Father of the victim (PW-1) has only deposed about the missing of the victim and lodging of the complaint in the police station. He did not know about the exact occurrences

happened with the victim. He did not know the contents of the complaint and he did not give any information to the police regarding conducting of spot panchnama. Hence, nothing material has extracted from his cross examination in support of the prosecution. Thus, the evidence of PW-1 is not helpful to the prosecution to establish the case against the accused.

13. In support of it, the prosecution has also examined PW-2 Victim XXXX at Exh.14 who deposed that, she did not know about her age in the year 2022 and at that time, they were residing near XXXXX along with her parents. Her parents were used to do sugarcane cutting. Further she deposed that, she know the accused as he was residing adjacent to her and she was having love relationship with him. They decided to elope away by bus. On the day of incident, they stayed at XXX, in the house of XXXX Kaka. The accused used to do the work and she stayed at home herself and at that time, there was no physical relationship between them.

14. As the victim did not support to the case of the prosecution, the Ld. APP sought permission to cross examine her. But, she denied all the facts. She only admitted the fact regarding recording her statement at Vadgaon court, but denied it's contents. She also admitted that, she performed marriage with the accused and she is having a small kid.

15. In cross examination of the accused, she deposed that, as she is illiterate, she cannot read and write. She did not know her age of birth and stated that, police wrote down her estimated date of birth in her statement. She did not know about the birth date and birth certificate of her daughter. She do not know the contents of her statement. Lastly, she admitted that, after completing her 18 years of age, they performed marriage and she is not having any complaint against the accused. Nothing tangible has come on record against the accused regarding kidnapping, repeatedly committed rape on her and also any incident of assault or harassment made by the accused through this witness (PW-2) in support of the prosecution.

16. The prosecution has also examined Devendra Herle(PW-3) at Exh.18, who deposed that he was doing agricultural work and used to drive the tractor for carrying the sugarcane crop and in 2022, he executed one agreement with Jawahar Sugar Factory, Hupari and for that work, she brought the sugarcane cutting luabours from District Dhule. At that time, there was one contractor namely Sunil Bhil. All labours were used to reside near the water tank situated at Maal. The contractor and all labourers were residing along with their families. He did not remember the name of the person with whom the incident took place. Incident of missing a girl was took place, but he did not know whose girl was missing. Further,

he denied that he had been to the police station and he has signed as verified on it. He did not identify the accused before the Court.

17. As the witness (PW-3) did not support to the case of the prosecution, the Ld. APP sought permission to cross examine him. But, he denied all the facts regarding recording his statement and it's contents. Nothing extracted from the evidence of this witness (PW-3) regarding kidnapping and rape on the victim and sexual assault and harassment committed by the accused. Hence, his evidence is of no use to the prosecution to prove all the charges levelled against the accused.

18. The prosecution has also examined Sushant Shinde (PW-4) at Exh.21 as a spot panch. He deposed that since 11/7/2022 he is working at Vadgaon Nagerpalika and as per letter dt. 17/1/2025 (Exh.22) and order (Exh.23), he was working as a panch. Accordingly, he went to the police station where the victim has narrated about the harassment made by the accused on her and proceeded the spot where the incident was happened.

19. He further deposed that, the victim had shown the spot of incident i.e. the house situated at Devkhind Vejegaon and he narrated all the description of the house. Accordingly, the spot panchanama (Exh.24) were conducted in presence of panch

witnesses and one Anita Madam. They also obtained extract of that house (Exh.25). Thus, this witness (PW-4) narrated only about the procedural aspect regarding conduction of spot panchnama.

20. In his cross examination PW-4 deposed that, he is working as a driver and his office hours were since 9.45 a.m till 6.15 p.m, but he did not give his extract of muster roll. He cannot tell the number of the vehicle used by them while proceeding towards the spot of incident. He could not state the four boundaries of the house and stated that he was merely standing on the spot when the spot panchnama was conducted. Thus, this witness (PW-4) stated about the procedural part of conducting the spot panchnama.

21. The investigating officer (PW-5) Smt. Anita Pawar deposed at Exh.28 that in February 2024 till June 2026 she was attached with Pethvadgaon police station as API. On 18/12/2024, investigation of C.R.No.61/2022 was handed over to her as per order (Exh.29) and he arrested the accused and conducted medical examination and collected DNA sample.

22. She (PW-5) further deposed that, she issued letter (Exh.23) for issuance of panch witness and conducted spot panchnama (Exh.24) and snapped the photographs of it. She also recorded statement of the owner of that house (Exh.25),

statement of the victim(Exh.30) and statement of the PW-3 Devendra. She medically examined the victim and collected sample, sent it to C.A and also obtained birth certificate of the victim (Exh.32). So also, she recorded statement of the victim under section 164 of Cr. P.C and filed the charge-sheet in the Court.

23. In her cross examination she (PW-5) stated that, she did not produce the birth certificate of the victim as the victim born in her house itself and hence she produced Aadhar card of the victim. As the DNA report has not received, she did not file it along with chargesheet. She also admitted that she did not produce the logbook of the vehicle, movement register, and the certificate under section 65(B). Lastly, she admitted that, the victim and the accused performed marriage and they are having a kid and co-habited with each other.

24. Considering the totality of the facts and circumstances along with the evidence on record, I hold that the prosecution has failed to bring home the guilt of the accused beyond reasonable doubt. The victim xxxx (PW-2) did not support the prosecution and have not alleged any overtact on the part of accused. The father of the victim (PW-1) did not state anything else regarding the occurrences happened with the victim. Nothing extracted come from the cross examination of those witnesses to answer those points in the affirmative.

Hence, there is nothing on record from which it can be said that, their evidence is sufficient to the prosecution to establish all the charges levelled against the accused.

25. The testimonies of Sushant Ananda Shinde (PW-4) and Anita Pawar (PW-5) is of formal nature. They narrated all the procedure which was done during conducting the spot panchnama and during the investigation of C.R.No.61/2022, merely on basis of their testimonies, the accused cannot be held guilty. As the charges levelled against accused are serious in nature, hence, it requires stringent proof. Under such circumstances the sole testimonies of all the witnesses is not sufficient to bring home the guilt of the accused. In the present case, the victim and her father have not alleged any overact on the part of accused. Considering the evidence on record, I am inclined to observe that, no evidence has been brought on record that, the accused kidnapped the victim, repeatedly committed rape on her and caused penetrative sexual assault and also caused sexual harassment on the victim.

26. It is well settled provision of law that benefit of doubt goes to the accused. As such the prosecution has failed to prove the necessary ingredients of the offences punishable under Sections 363,376,376(2)(n) of IPC and under Section 4,6, 8, 12 of POCSO Act, against the accused beyond reasonable doubt. Considering the entire evidence on record as discussed above it

appears that the prosecution has failed to prove the offence against the accused beyond reasonable doubt.

27. It is cardinal principle of criminal justice system that the prosecution must establish the guilt of accused beyond reasonable doubt for the charges levelled on him. In present case at hand as discussed herein above there is no reliable evidence showing nexus of present accused with the charges levelled on them. Hence, there is no alternative to this court except to answer the Point Nos. 2 to 8 in the negative and pass the following order.

ORDER

(1) Accused Shatrugna Aabaji Gejage is hereby acquitted under Section 235 (1) of the Code of Criminal Procedure, 1973 for the offence punishable under Sections 363, 376, 376(2)(n) of the Indian Penal Code, 1860 and under Sections 4,6, 8, 12 of Protection of Children from Sexual Offences Act, 2012 .

(2) Bail bonds of accused stands cancelled.

(3) The accused shall execute bail bond of Rs. 50,000/- (Rs. Fifty Thousand only) under Section 437-A of the Code of Criminal Procedure, and furnish surety in like amount by him which shall be in force for six months.

(4) Copy of this judgment be sent to the District Magistrate, Kolhapur vide Section 365 of Cr.P.C. The District Magistrate, Kolhapur shall submit compliance report to this Court.

(5) Original birth certificate and Aadhar card of the victim be returned to the complainant as per application at Exh. 35 filed on record after retaining verified copies of original.

(6) Special Case No.53/2025 stands disposed of.

(Dictated and pronounced in open court.)

Date :04/08/2026.

(**A. I. Perampalli**)
Additional Sessions Judge,
& Special Judge(POCSO)Kolhapur.