



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.681 OF 2022

Ravindra S/o. Bajirao Patil,
Age : 53 years, Occu. : Agril.,
R/o. Wakodi,
Tq. Soyagaon & Dist. Aurangabad.
(Presently in Jail)

... Appellant
[Orig. Accused]

Versus

1. The State of Maharashtra,
Through Police Station, Soyagaon,
Tq. Soyagaon & Dist. Aurangabad.
2. X.Y.Z.
Guardian of victim,

... Respondents

.....
Mr. Sopan G. Bobde, Advocate for Appellant.
Mrs. Saie S. Joshi, APP for Respondent - State.
Mr. Narayan B. Narwade, Advocate for Respondent No.2 (Appointed)

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 18 MARCH 2026

PRONOUNCED ON : 24 MARCH 2026

JUDGMENT :

1. Appellant/convict is taking exception to the Judgment and order of conviction dated 03.08.2022 passed by the learned Special Judge, (POCSO Act), Aurangabad in Special Case (POCSO) No.87 of 2019, by which appellant stood convicted for the offence punishable under section 376(2)(j)(k)(n) and 323 of the Indian Penal Code (IPC) and under sections 6 and 8 of the Protection of



Children from Sexual Offences (POCSO) Act, 2012 and under section 75 of Juvenile Justice (Care and Protection of Children) Act.

2. In brief, prosecution was launched against present appellant on receipt of report from victim against her father, wherein she narrated that she was studying in 9th standard and was of 15 years of age, at the time of incident. According to her, on 04.03.2019, her brother and mother had come to Aurangabad on account of death of grandson of her uncle. She narrated that, only she and her father were in the house. Her father had slept on the floor and she slept on the cot. Her father initially asked her to press his back and thereafter asked her to sleep besides him on the ground. But, as she was not willing, he threatened her, and therefore, she went to sleep near him. According to her, he forcibly disrobed her and had sexual intercourse with her and thereafter threatened to kill her and not to inform anyone. Again in the next night, he repeated the same incident. This was again done by him on 08.03.2019 and she told it to her mother. Even on 19.03.2019 when her mother had been to attend marriage and while she, her brother and her father were alone in the house, he made advances, however, as he woke up her brother, he went back to sleep. But, on next morning he again had forceful intercourse with her, when her brother also went out. Thereafter, in the orchard of Pomegranate, he had forcible intercourse with her, and therefore, she



made phone call to her sister and maternal uncle, who came and they all went to police station and gave complaint at Exh.11, resulting into FIR at Exh.12.

3. PW7 PSI Waghmare conducted investigation and after gathering sufficient evidence, accused was charge-sheeted, who was finally tried by learned Special Court, Aurangabad vide Special Case (POCSO Act) No. 87 of 2019 and came to be convicted by judgment and order dated 03.08.2022.

Present appeal challenges the above judgment and order of conviction.

SUBMISSIONS

On behalf of Appellant :

4. Learned counsel for appellant would point out that, there is false implication. That, evidence of brother and other witnesses is hearsay evidence. That, there is no corroboration to the evidence of victim. That, love affair of the victim with another boy was noticed, and therefore, objection was taken in the capacity of father and therefore, there is false implication. He pointed out that, there is no medical support. That, victim has not given details of the several encounters. Her testimony does not inspire confidence, rather it appears doubtful in the cross-examination.



5. Criticizing the judgment, it is submitted that all aspects are not correctly appreciated by the learned trial Court. That, birth date of victim is not proved as per law, but still conviction is recorded on insufficient evidence and for all above reasons, appeal is sought to be allowed by setting aside the impugned judgment and order of conviction.

On behalf of Respondents :

6. Per contra, learned counsel for State as well as learned counsel for complainant, both pointed out that, daughter has lodged complaint against her father. She would not falsely implicate her own father for no reason. That, multiple times by taking disadvantage of absence of her mother and brother, father has victimized his own daughter. That, there were threats to kill, but she mustered courage to inform her mother when there were repeated sexual assaults by father. That, her brother has also deposed before the Court. He has corroborated evidence of the victim. They also pointed to the medical evidence as well as evidence of Headmaster on the point of age and would point out that victim at the time of incident apparently was minor, and therefore, apart from penal sections of IPC, provisions of POCSO Act and Juvenile Justice Act are also attracted. According to them, there is overwhelming evidence on the age of victim. Resultantly, they justified the order of conviction and prays to



dismiss the appeal for want of merits.

EVIDENCE BEFORE THE TRIAL COURT

7. This being appeal, evidence on record is put to re-appreciation. Crucial evidence is of Headmaster on the point of date of birth. On occurrence, evidence of victim and her brother assumes significance. Brief account of victim, which is crucial, is reproduced below.

PW1 Shivani is the victim and she has deposed at Exh.10, during which she gave her date of birth as 20.06.2004 and stated that she was studying in 9th standard in 2019, while she was 15 years of age. First episode of forceful intercourse is attributed to her own father on 04.03.2019, when her brother and mother were at Aurangabad on account of demise of grandson of uncle. She has narrated the sequence of events of that night i.e she being initially asked to give massage to his back and then threatening him to sleep besides him, disrobing his own daughter and having sexual intercourse with her. In her testimony, she has narrated that similar incident took place on the next night. She claims to have reported to to her brother and mother. She narrated that, on 08.03.2019, her father made advances, but he managed to wake her brother and therefore, his evil intentions did not fructify. But, in the next



morning, she claimed that when her brother also had been for marriage, during day time, he had forceful relations with her. He also allegedly beat her for waking up her brother. According to her, while forceful disrobing, clothes got torn and father suggested burning it, but instead, she claims to have concealed it. She also narrated about she being sexually ravished while passing through the Pomegranates orchard and she immediately reported her mother and then uncle was informed and they all came and took her to the police station, where she lodged complaint. She handed over her clothes and subjected herself to medical examination. She also identified her statement in the Court under section 164 of Cr.P.C.

Though victim is cross examined, questions are about not appearing for 9th standard examination, not attending school regularly, taking admission in another school in 8th standard. She denied that for last seven years, her father was residing in another village for work purpose. Then she is questioned about marriage expenses for her elder sister born by father. Then there are question about marriage proposal being received from relatives. In cross she answered that, the bad incident took place with her seven to eight times, but she is unable to tell exact dates of those incidences. In cross she answered that, her mother settled her marriage and at that time she was 18 years of age.



8. Next crucial evidence is **PW3** brother and he is examined at Exh.21 and he also deposed therein that on 04.03.2019 he accompanied his mother to Aurangabad and after they returned, his sister told that her father harassed her, made her sleep beside him, disrobed her and had physical relations with her. He also stated about incident dated 19.03.2019 while her father tried to wake his sister (victim), she woke up him. After which, her father went back inside and on next day i.e. on 20.03.2019, when he had been to attend marriage at Ghatnanda and his sister and father were at home, after returning, his sister told that again she had been beaten and physical relations were being maintained with her. He also narrated about incident dated 24.03.2019, when he and his mother had been to village Jaichakar, Tq. Jamner for attending marriage ceremony and after returning from there, sister told that when she had been to Dadra field, his father followed his sister, again disrobed her and had physical relations with her. Similar incident took place on 09.04.2019 in the field of Pomegranates and all this was then reported to the elder sister as well as uncle, who arrived, and they all approached police, and even his statement was recorded.

Though above witnesses are cross examined, nothing adverse has been brought. He stated that whatever he learnt from his sister was narrated in his evidence and thereby he withstood the



cross examination.

9. **PW2** Madhukar is the Headmaster of Zilla Parishad Primary School and he carried original certificate and school extract, which he placed on record i.e. Exhs.19 and 20, wherein date of birth of victim is shown as 20.06.2004.

Though above witness is cross examined, nothing damaging or doubtful has come in his cross.

10. Therefore, on the strength of evidence of victim finding support from her brother, it is proved that accused father has sexually ravished his own daughter, who was a minor. By examining PW2 Headmaster prosecution has proved the victim to be minor. Nothing adverse has been brought in the evidence of above three witnesses.

11. Evidence of complainant victim does inspire confidence. Though what is tried to be put-forth during argument that on account of love relations with a boy, which were allegedly objected by father, there is false implication, but there is no suggestion to that extent to victim or brother, therefore above ground of challenge has no force.

12. The second part of evidence on behalf of prosecution is



the medical examination. Victim has made herself available for examination. **PW5** Dr. Swati, who had occasion to examine the victim, has deposed at Exh.33, wherein initially history of sexual assault is narrated. Findings on examination are narrated by Doctor in paragraph no.3 about noticing hymenal to be torn and this Doctor had opined that sexual assault could not be ruled out. On going through C.A. report, medical expert has stated that the possibility of sexual intercourse cannot be ruled out. Therefore, there is corroboration from the medical evidence.

13. Rest of the witnesses are panchas to spot, seizure of clothes of victim i.e. PW4 and PW6. PW7 is the Investigating Officer. These witnesses have also supported prosecution.

14. Consequently, on taking survey of the entire prosecution evidence, it is noticed that, there is an unfortunate case, wherein it is proved that, a father has victimized his own minor daughter and has rather ravished her multiple times. Evidence of victim is found to be trustworthy, credible and inspiring confidence and moreover find support from both brother as well as medical expert. Resultantly, there being no merits in the appeal, I proceed to pass following order :-



ORDER

- (i) The appeal is hereby dismissed.
- (ii) Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)