



2025:CGHC:8349-DB

**AFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 358 of 2022**

Mukundrao Sarjare S/o Late Shri Kanhuji Sarjare Aged About 75 Years  
R/o Shantinagar, Kahadkasa, P.S. Chilhati, Dist.- Rajnandgaon (C.G.)

**... Appellant(s)****versus**

State Of Chhattisgarh Through- The Police Station Chilhati, District-  
Rajnandgaon (C.G.)

**... Respondent(s)**

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For Appellant(s) : Ms. Itu Rani Mukherjee, Advocate

For Respondent(s) : Mr. Nitansh Jaiswal, Panel Lawyer

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**Hon'ble Shri Ramesh Sinha, Chief Justice**  
**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**Judgment on Board****Per Ramesh Sinha, Chief Justice****18.02.2025**

1. Heard Ms. Itu Rani Mukherjee, learned counsel for the appellant.  
Also heard Mr. Nitansh Jaiswal, learned Panel Lawyer for the  
respondent / State.
2. This criminal appeal under Section 374(2) of the CrPC is directed  
against the impugned judgment of conviction and order of

sentence dated 17.01.2022 passed by the learned Additional Sessions Judge (F.T.S.C.) (POCSO) Rajnandgaon (C.G.) in Special Criminal Case (POCSO) No. 28/2021, by which the appellant herein has been convicted for offence under Section 342 of the IPC and sentenced to undergo R.I. for 1 year, under Section 506 Part II and sentenced to undergo R.I. for 3 years, under Section 6 of the POCSO Act and sentenced to undergo Rigorous Imprisonment for life and fine of Rs.2,000/-, in default of payment of fine, to further undergo R.I. for 01 year.

3. Notice issued to PW-1 i.e. father of the victim has been served, but none appeared on her behalf to contest the present appeal.
4. The prosecution story, in brief, is that on 19.03.2021, when the father of the victim submitted a written complaint before the police station Chilhati alleging that the accused Mukundrao Sarjare locked the victim in a room of his house situated within the jurisdiction of Police Station Chilhati, District Rajnandgaon and caused wrongful restraint in such a manner that the victim was prevented from going beyond a certain limit and thereby caused wrongful confinement. It is also alleged against the accused that on the said date, time and place of the incident, he committed the offence of rape by forcibly removing the clothes of the victim who was 10 years 07 months 29 days old and less than 12 years of age, and by pressing the mouth of the victim with his hand and establishing physical relations with the victim and by committing

penetrative sexual assault and aggravated penetrative sexual assault. It is also alleged against the accused that on the said date, time and place of the incident, he caused criminal intimidation by threatening to kill the victim with the intention of causing terror to her.

5. The police of Police Station Chilhati registered a First Information Report under Crime No. 13/2021 under Sections 342, 376 AB, 506 of the Code and Sections 4 and 6 of the Act, prepared a spot map of the incident, got the victim medically examined and seized the underwear of the victim. The statement of the victim was recorded under Section 164 CrPC. Birth certificate, progress sheet and mutation register were seized in relation to the date of birth of the victim. After taking the accused into custody, his medical examination was conducted, the underwear worn by the accused at the time of the incident was seized, the accused was arrested, his family members were informed, a site map (Ex.P-09) of the place of incident was prepared through the Patwari, and the statements of the victim and witnesses were recorded, in the case the seized underwear worn by the victim and the accused were sent to the office of the Director State Forensic Science Laboratory, Raipur through the office of the Superintendent of Police, Rajnandgaon, and after the completion of the investigation, a charge-sheet was presented before the court against the accused under Sections 342, 376 AB, 506 Part-2 of the Code and Sections 4, 6 of the Act.

6. On the basis of perusal of the record and the attached documents, the accused was prima facie found to have committed the offences under Sections 342, 376AB, 506 (2) of the Code and Section 6 of the Act. Charges were framed against the accused under the said sections. The accused denied the offence and demanded trial after the same were read out and explained to him. The plea of the accused was recorded under Section 313 of the Code of Civil Procedure, 1973, in which he declared himself to be innocent and expressed his innocence by giving no evidence in his defence and did not examine any witness in his support, on the basis of which the defence evidence was declared closed.
7. In order to establish the charge against the appellant, the prosecution examined as many as 12 witnesses and exhibited the documents (Exs.P-1 to P-34). After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in para 1 of the judgment. Hence, this appeal.
8. Learned counsel for the appellant submits that the impugned judgment, conviction and sentence dated 17.01.2022 awarded by the trial Court is bad in law, perverse, thus liable to be set aside. The F.I.R. has not been proved by the prosecutrix and her parents themselves. There are contradictions and omissions in the testimony of the prosecutrix in respect to allegations made in the F.I.R. The medical report does not corroborate the version of the

prosecutrix and as per the statement and report given by the (P.W.08) Dr. Tejal Kurhade, it is not sure that the sexual intercourse has taken place with the prosecutrix. The age of the prosecutrix has also not been proved hence the case under Section 6 of the Protection of Children from Sexual offences Act, 2012 is not made out against the appellant. Further, the learned trial court has erred in holding that the prosecutrix (P.W.3) is less than 18 years of age on the date of incident, the court below ought to have consider that the mother and father of the prosecutrix have not proved the aged of the prosecutrix to be less than 18 years of age. Lastly, the trial court has not appreciated the evidence on record properly and came into erroneous conclusion while passing the judgment of conviction which is liable to be set aside.

9. On the other hand, learned counsel for the State opposes the submissions made by the learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt and the prosecutrix (PW-3) has clearly deposed the conduct of the appellant in her statement and in the Court statement and the learned trial Court after considering the material available on record has rightly convicted and sentenced the appellant, in which no interference is called for.
10. We have heard the learned counsel for the parties and perused the record with utmost circumspection.

11. The issue that arises for consideration in the present appeal is whether the testimony of the victim/prosecutrix deserves acceptance and whether the prosecution has established the case of the appellant beyond reasonable doubt.
12. It is pertinent to observe that the question whether conviction of the accused can be based on the sole testimony of the victim in cases of sexual assault/rape is no longer *res integra*. The Hon'ble Supreme Court has dealt with the issue in a catena of judgments and has held that the sole testimony of the prosecutrix if found reliable can be the sole ground for convicting the accused and that the creditworthy testimony of the victim in cases of such nature deserves acceptance.
13. The next issue that arises for consideration in the present appeal is whether the age of the victim on the date of commission of the offence concerned, was below 18 years of age.
14. Regarding the age of the victim, father of the victim (PW-1) has alleged in his examination-in-chief that the date of birth of his daughter is 20.05.2010. The mother of the victim (PW-2) and the victim (PW-3) have also not made any statement regarding the date of birth in their respective examinations-in-chief, but the victim has alleged that her age was 11 years at the time of the incident, which is also supported by the statements of the mother of the victim, the grandmother of the victim and the grandfather of the victim.

15. The victim's father (P.W.1) has stated in his examination-in-chief that he had got his daughter's birth certificate and class 1 progress report seized as per seizure report is (Ex.P-3). He brought the original birth certificate with him during the evidence, according to which his daughter's date of birth is 20.05.2010 and the photocopy of the birth certificate was attached in the case (Ex.P-4C). The mutation register (Ex.P-6) relating to the birth of his daughter was seized from the primary school before him. The seizure proceedings have also been supported by the mother of the victim (PW-2) in her evidence.
16. The Head Teacher (PW-4) has stated in his examination-in-chief that on 20.03.2021, an application was received by the Chilhati Police Station in Crime No. 13/2021 regarding the demand of the mutation register related to the birth of the victim, which is Ex.P-13. In the context of the said application, he provided the original mutation register to the Chilhati Police Station for inspection, after which the Chilhati Police Station seized the certified copy of the original mutation register from him in the Government Primary School in front of two witnesses, which is Ex.P-6. After the seizure of the certified copy of the original mutation register, the original mutation register was given to him on delivery, which is Ex.P-14.
17. This witness has further deposed in his examination-in-chief that he had appeared before the evidence along with a copy of the original mutation register which is maintained by the public

servant in the discharge of official duty. The original Dakhil Kharij register is maintained from 20.06.2009 to 23.07.2021, in whose serial number 1135, the victim, victim's father, victim's mother, caste, address, occupation, date of birth of the victim dated 20.05.2010, date of admission dated 16.06.2015 in class I, date of leaving school dated 16.06.2020, reason for leaving school is passing fifth class, the details of which are in Part A of Ex.P-15 and its signature and seal are affixed on parts B to B. After matching with the original Dakhil Kharij register, the verified copy of the Dakhil Kharij register attached in the case was marked as Ex.P-15C.

18. The victim's father has clearly stated in his main examination that the date of birth of the victim is 20.05.2010, which is also supported by documentary evidence, namely, birth certificate (Ex.P-4C) and certified copy of Dakhil Kharij register (Ex.P-15C). The defence did not present any document to refute the said documents, nor any such fact came to light which can in any way disbelieve the entry of the victim's date of birth recorded in the documents. In such a situation, the fact is proved in the case that the date of birth of the victim is 20.05.2001. The incident is of 19.01.2021, from which it is clear that the age of the victim at the time of the incident was 10 years 07 months 29 days i.e. less than 12 years which is less than 18 years and from the irrefutable documentary evidence presented by the prosecution, it is proved



that the victim was a child under Section 2 (d) of the Protection of Children from Sexual Offences Act, 2012.

19. The defence has not challenged the oral and documentary evidence produced by the prosecution in cross-examination and in the statement recorded under section 313 regarding the date of birth of the victim as 20.05.2001. Thus, in the present case, the birth certificate (Ex.P-4C) and certified copy of Dakhal Kharij register (Ex.P-15C) has been certified by the prosecution.
20. On the basis of oral and documentary evidence presented, the date of birth of the victim is proved to be 20.05.2001, according to the prosecution story, the date of incident is 19.01.2021. Therefore, at the time of the incident, the victim was a minor girl, 10 years 07 months 29 days, i.e., the victim was less than 12 years of age, as proved by the prosecution evidence.
21. Now, next question for consideration is whether the appellant committed rape with the prosecutrix / victim girl was a minor girl less than 12 years of age on the date of incident.
22. **Prosecutrix (PW-3)** has alleged in her examination-in-chief that on the date of incident when she was in her house, the accused called her by gesturing and as she reached near the door of the accused's house, the accused caught hold of her and pulled her, closed the door, made her lie on the bed, removed her slacks and underwear, took off his clothes and put his urinating organ in her urination place and did wrong things to her. She suffered pain and

suffering due to rape by the accused. After the incident, the accused threatened to kill her if she told anyone about it. She also stated in her main examination that after the incident her maternal aunt (PW-6) came and the accused started wearing his clothes after which she returned to her house. Imala Dadi told her grandmother about the incident and when the grandmother came to know about it, she beat her. Her grandmother called her father and when her parents came back, her grandmother informed her parents about the incident. When her mother questioned her, she told her about the incident. Earlier she did not tell anyone due to fear and shame.

23. **Aunt of the victim (PW-6)** has stated in her main examination that on the date of the incident she had gone to the house of the accused to ask for a tawa (pan). The door of the house of the accused was slightly open which she opened by calling out and went inside the house, she saw that the accused and the victim were without clothes. Seeing this she felt ashamed and went out. After some time the accused sat at the door of the courtyard in front of his house and the victim also came out and went to her house. This witness has also stated in her main examination that she had called the victim to her house and questioned her, the victim got frightened, then she told the victim that she had seen everything and she would tell the victim's mother, then the victim told that she had not gone to school due to headache and was sitting at the door of her house, then the accused called her by

gesture, then she went in front of his house, then the accused caught her hand and pulled her inside and pushed her on the cot and he was doing all sorts of things with her after removing her clothes and making her sleep on the cot.

This witness has also alleged in her examination-in-chief that when she asked the victim why she did not raise an alarm, the victim told that the accused had gagged her mouth and threatened to kill her if she told anyone and gave her ten rupees. The next day the accused came in front of her house and started giving her thirty rupees and said that she should not tell anyone what she had seen and started pleading with her, then she refused to take the money and asked him to go home. She told her husband about the incident and her husband told the victim's grandmother. When she asked the victim about the incident, she told that the accused had gagged her mouth and made her lie down on the cot and committed the crime of rape.

24. The **grandmother of the victim (PW-9)** has deposed in her examination-in-chief that her neighbor had told her what the accused had done to the victim. This witness was declared hostile by the prosecution. On being asked suggestive questions, this witness has admitted that while giving statement to the police, she had stated in Ex.P-21 that on 14.03.2021 she had told that the accused had called her granddaughter to his house, removed her clothes, gagged her mouth with his hand and raped her and had threatened to kill her. She has also admitted that she, her son and

Murali had told that the accused had called her granddaughter to his house and raped her. When her daughter-in-law asked the victim, the victim told that the accused had called the victim to his house, closed the door, removed her clothes, gagged her mouth with his hand and raped her and had threatened to kill her if she told anyone.

25. It is clear from the statements of the **victim's father (PW1-)** and the **victim's mother (PW-2)** that on the date of the incident, they had gone out to earn money and eat, then the victim's grandmother called the victim's father saying that there was some urgent work, then the victim's father came to his house alone where his mother i.e. victim's grandmother told the victim's father about the incident, after which he came to the village with his wife the next day and when the victim's mother questioned the victim, the victim told that the accused called her into the house, dragged her inside by her hand, closed the door, removed her clothes, gagged her mouth with his hand and raped her. Similarly, it is also alleged that at the time of the incident the victim's aunt went to the accused's house to ask for a pan. It is alleged that his daughter did not tell about the incident earlier due to fear and shame and his wife told him and her mother as told by the victim and a report was written regarding the incident by the victim's father.
26. The **elder father of the victim (PW-10)** has stated in his examination-in-chief that his younger brother called him and when

he went there he told him that the accused had called his daughter to his house and raped her and he has to go to the police station to report the incident. The victim his told her mother about the incident.

27. Now coming to the medical evidence adduced; **Medical witness , Dr. Tejal Kurhade (PW-8)** has stated in her examination-in-chief that on 19.03.2021 at 04:50 p.m., the victim aged 10 years was brought for examination by lady constable number 347 Gomti Sahare of Police Station Chilhati. After obtaining her consent, the victim was medically examined and a report (Ex.P-20) was presented wherein it was found that both the breasts of the victim were not developed, axillary and pubic hair were also not present, the victim had not menstruated.
28. She further stated that there were no injury marks anywhere on the body of the victim, there was swelling and redness on both sides of the labia majora and the hymen was intact. The victim had stated that on 19.01.2021 at 01 p.m., the accused called the victim to his house, closed the door of the room, forcibly held her and made her lie down on the bed and removed her clothes below and removed his clothes as well and forcibly established physical relations with her by gagging her mouth.
29. **Dr. Himanshu Kashyap (PW-5)** has stated in his examination-in-chief that on 20.03.2021 at 10:30 and 10:45 a.m., constables of Police Station Chilhati visited the Community Health Centre,

Ambagarh Chowki. When the accused was brought for examination by the Constable No. 1332, he examined the accused and found him to be completely healthy, there was no injury near the private parts, smegma was absent and the accused was fully capable of having sexual intercourse. The reports given by him are (Ex.P-16 and Ex.P-17 respectively).

30. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as

well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

31. In the matter of **Alakh Alok Srivastava v. Union of India & Ors.**, (2018) 17 SCC 291, in paras 14 and 20, it is observed as under:

"14. At the very outset, it has to be stated with authority that the Pocso Act is a gender legislation. This Act has been divided into various chapters and parts therein. Chapter II of the Act titled "Sexual Offences Against Children" is segregated into five parts. Part A of the

said Chapter contains two sections, namely, Section 3 and Section 4. Section 3 defines the offence of “Penetrative Sexual Assault” whereas Section 4 lays down the punishment for the said offence. Likewise, Part B of the said Chapter titled “Aggravated Penetrative Sexual Assault and Punishment therefor” contains two sections, namely, Section 5 and Section 6. The various subsections of Section 5 copiously deal with various situations, circumstances and categories of persons where the offence of penetrative sexual assault would take the character of the offence of aggravated penetrative sexual assault. Section 5(k), in particular, while laying emphasis on the mental stability of a child stipulates that where an offender commits penetrative sexual assault on a child, by taking advantage of the child's mental or physical disability, it shall amount to an offence of aggravated penetrative sexual assault.”

“20. Speaking about the child, a three Judge Bench in M.C. Mehta v. State of T.N. (1996) 6 SCC 756 “1. ... “child is the father of man”. To enable fathering of a valiant and vibrant man, the child must be groomed well in the formative years of his life. He must receive education, acquire knowledge of man and materials and blossom in such an atmosphere that on reaching age, he is found to be a man with a mission, a man who matters so far as the society is concerned.”

32. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand** (CRIMINAL APPEAL NO.144 OF 2022), decided on 8.2.2022 has held as under:-



“10. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody commits any offence under the POCSO Act of sexual assault, sexual harassment or use of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas. As observed and held by this

Court in the case of **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In the case of **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a minor who is subjected to sexual abuse needs to be protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

33. When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect. If the Court deems such evidence credible and free from doubt, there is hardly any insistence on corroboration of that version. In **State of H.P. v. Shree Kant Shekar (2004) 8 SCC 153** the Hon<sup>ble</sup> Supreme Court held as follows:“

“21. It is well settled that a prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. There is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands on a higher pedestal than an injured witness. In the latter case, there is injury on the physical form, while in the former it is physical as well as psychological and emotional. However, if the court on facts finds it difficult to accept the version of the prosecutrix on its face value, it may search for evidence, direct or circumstantial, which would lend assurance to her testimony. Assurance, short of corroboration, as understood in the context of an accomplice, would suffice.”

34. On these lines, the Hon'ble Supreme Court in **Shivasharanappa and Others v. State of Karnataka, (2013) 5 SCC 705** observed as follows:

“17. Thus, it is well settled in law that the court can rely upon the testimony of a child witness and it can form the basis of conviction if the same is credible, truthful and is corroborated by other evidence brought on record. Needless to say as a rule of prudence, the court thinks it desirable to see the corroboration from other reliable evidence placed on record. The principles that apply for placing reliance on the solitary statement of the witness, namely, that the statement is true and correct and is of quality and cannot be discarded solely on the ground of lack of corroboration,

apply to a child witness who is competent and whose version is reliable.”

35. The Supreme court in the matter of **State of UP v. Sonu Kushwaha, (2023) 7 SCC 475** has held as under :

“12. The POCSO Act was enacted to provide more stringent punishments for the offences of child abuse of various kinds and that is why minimum punishments have been prescribed in Sections 4, 6, 8 and 10 of the POCSO Act for various categories of sexual assaults on children. Hence, Section 6, on its plain language, leaves no discretion to the Court and there is no option but to impose the minimum sentence as done by the Trial Court. When a penal provision uses the phraseology “shall not be less than....”, the Courts cannot do offence to the Section and impose a lesser sentence. The Courts are powerless to do that unless there is a specific statutory provision enabling the Court to impose a lesser sentence. However, we find no such provision in the POCSO Act. Therefore, notwithstanding the fact that the respondent may have moved ahead in life after undergoing the sentence as modified by the High Court, there is no question of showing any leniency to him. Apart from the fact that the law provides for a minimum sentence, the crime committed by the respondent is very gruesome which calls for very stringent punishment. The impact of the obnoxious act on the mind of the victim/child will be lifelong. The impact is bound to adversely affect the healthy growth of the victim. There is no dispute that the age of the victim was less than twelve years at the time of the incident. Therefore, we have no option but

to set aside the impugned judgment of the High Court and restore the judgment of the Trial Court.”

36. On the basis of analysis of evidence presented by the prosecution, it is evident that date of birth of the victim is 20.05.2001 and on the date of incident i.e. 19.01.2021, it is clear that the age of the victim was 10 years 07 months 29 days i.e. less than 12 years which is less than 18 years at the time of the incident. It is proved that the victim is a girl child and that the accused, knowing that the victim was a girl child below 12 years of age at the time of the incident, committed the crime of rape, forcible penetration, sexual assault and rape on the girl/victim below 12 years of age. Thus, the said crime of rape, penetrative sexual assault on a minor girl below 12 years of age by the accused falls under the category of aggravated penetrative sexual assault.
37. Lastly, considering the statement of the prosecutrix (PW-3) who has specifically stated the act of the present appellant, statement of the mother of the victim (PW-2) and father of the victim (PW-1), statement of Aunt of the victim (PW-6), who is the eye witness of the incident, statement of medical officer Medical witness Dr. Tejal Kurhade (PW-8), that on the date of incident, there was swelling and redness on both sides of the labia majora of victim and on the irrefutable evidence of Dr. Himanshu Kashyap (PW-5), the accused was found to be fully capable of establishing physical relations on the date of incident and the material available on

record and the principle of law laid down by the Supreme Court in the above-stated judgments, we are of the considered opinion that the learned Special Judge has rightly convicted the appellant for offences under under Sections 342, 506 Part II of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012. We do not find any illegality and irregularity in the findings recorded by the trial Court.

38. In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the trial court to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

39. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

40. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, to serve the same on the Appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

**(Ravindra Kumar Agrawal)**  
Judge

Sd/-

**(Ramesh Sinha)**  
Chief Justice

**HEAD-NOTE**

When considering the evidence of a victim subjected to a sexual offence, the Court does not necessarily demand an almost accurate account of the incident. Instead, the emphasis is on allowing the victim to provide her version based on her recollection of events, to the extent reasonably possible for her to recollect.