



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.393 OF 2016

Pawan Subhash Sonawane
Age: 30 years, Occu.: Agri.,
R/o. Kusumba, Tq. Jalgaon,
District Jalgaon.

.. Appellant

Versus

The State of Maharashtra

.. Respondent

...
Mr. Yogesh H. Jadhav, Advocate h/f Mr. Girish Nagori, Advocate for
the appellant.

Mr. N. D. Raje, APP for the respondent/State.

...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 29.09.2026

Pronounced on : 30.09.2026

JUDGMENT :-

1. The appellant-convict takes exception to the judgment and order of conviction dated 03.06.2016 passed by the learned Special Judge, Jalgaon, in Special Case No.15 of 2013, for the offence punishable under Section 354-A(1)(i) of the Indian Penal Code [IPC].

2. In short, the prosecution case before the Trial Court was that PW2, the mother of PW1 (victim), was admitted to the Civil Hospital, Jalgaon, and was undergoing treatment. PW1, who was taking care of her mother, had, after the meals, taken the utensils for washing to the

tap situated inside the ward itself. At that time, accused came from rear side of her, pressed her breast and outraged her modesty. Her shouts and cries attracted the attention of the police, whereupon she accompanied them to the police station and lodged a report, resulting in the registration of the crime. The crime was thereafter investigated and, upon completion of investigation, accused was charge-sheeted and tried in the aforesaid Special Case. Ultimately, he came to be convicted by the judgment and order dated 03.06.2016. Hence, the present appeal.

3. Learned Counsel for the appellant apprise this Court about the story of prosecution in trial Court. After taking this Court through the length and breadth of the testimonies of complainant, her mother and other witnesses, learned Counsel for the appellant would submit that there is no independent witness corroborating the testimony of complainant. According to him, PW2 mother has hearsay information. He pointed out that other patients admitted in the ward are not examined. That, moreover victim was not referred to medical and therefore, allegations are not proved. According to him, learned trial Court failed to appreciate the defence set up by the accused and directly accepted the case of prosecution, which was without corroboration. Learned Counsel for the appellant took this Court

through the entire judgment and order and would submit that no sound reasons are assigned while convicting the appellant and therefore, he prays to interfere by setting aside the impugned judgment.

4. Learned APP would support the judgment and order of conviction by submitting that the same is based on a complete appreciation of evidence and upon finding testimony of complainant worthy of credence. He prays for dismissal of the appeal for want of merits.

5. Heard. Perused the record. The prosecution case appears to rest on the evidence of as many as six witnesses. Though the accused was charge-sheeted for offences under the Protection of Children from Sexual Offences Act (for short “POCSO Act”), the learned Trial Court having acquitted him of the charge under Section 8 of the POCSO Act, and there being no appeal by the State, this Court is only called upon to ascertain whether the charge under Section 354-A(1)(i) of the IPC has been cogently brought home. Here, as stated above, though six witnesses have been examined by the prosecution, the crucial evidence is that of the victim, her mother and a ward nurse.

6. **PW1** Victim, in her testimony at Exhibit-15, deposed that as her mother had health issues, she was admitted in Civil Hospital, Jalgaon and therefore. She used to stay with her mother in the hospital in General Ward No.12. She testified that on 13.03.2013, at around 8.00 p.m., after the meals, when she went to the basin to clean the utensils, the accused came from behind and, inserting his hands beneath her shoulders, pressed her breasts, whereupon she shouted. Her mother and the nurse reached there. The police also reached there, thereafter, she lodged the report Exhibit-16.

. Minor omissions were brought on record during her **cross-examination** to the extent that the police had accompanied her from the hospital to the police station and regarding her mother being admitted to the general ward. She answered that when the accused pressed her breast, she had shouted. She further answered that when the accused put his hands beneath her shoulders, she shouted and, therefore, her mother came and several persons gathered. She answered that when the accused put his hands beneath her shoulders, she did not resist. Rest is all denial.

7. The above is the testimony of the victim, which apparently appears to be natural. On the relevant day, she was taking care of her mother in the hospital and, after taking dinner, when she went to

wash the utensils, the above act was committed by the accused. The manner of cross-examination show that there is no serious challenge to the occurrence and even the occurrence is got confirmed through her cross-examination.

8. PW-2, the mother of the victim, in her evidence at Exhibit-18, also testified that her daughter was staying with her in Ward No.12 of the hospital to take care of her and that, on 13.03.2013, after taking meals, her daughter went to wash the utensils at the tap in the ward. Upon hearing her daughter's shouts, she rushed there, whereupon her daughter informed her that the accused had pressed her breast.

. Nothing adverse has been brought in her **cross-examination**.

9. Likewise, **PW3** independent witness and a nurse, in her evidence at Exhibit-20, deposed that patient, namely, Kalpanabai was also admitted in the same ward along with Meenabai, who was being taken care by her daughter (victim). Accused was said to be brother of said Kalpanabai and she in her evidence deposed that, at around 8.30 p.m., she learnt from PW2 that modesty of her daughter was outraged by accused and, therefore, she made phone call to the security, who in turn, informed the police.

10. Therefore, these witnesses, more particularly, PW2 and PW3 seems to be *res gestae* witnesses, to whom victim has immediately informed after she was victimized and her modesty was outraged. Evidence of complainant, as stated above, appears to be natural and therefore, worthy of credence and reliance.

11. Submissions made before this Court that there is no corroboration to the victim's testimony has no force. When testimony of victim inspires confidence, her sole testimony can definitely be relied and acted upon. Here also, testimony of victim inspires confidence. There is nothing brought in her cross-examination to disbelieve her or to doubt her version. As regards to non examination of independent witnesses, here, there is testimony of PW3, a nurse, who was also present around and had reached and heard the story from informant's mother, who too was a patient. In fact, presence of accused is not rendered doubtful and this witness PW3 has deposed that accused was brother of a lady patient, namely, Kalpanabai and he seems to have come there as a caretaker. In view of the nature of allegations which are proved, there was no need for referring victim to the medical examination, as no injury was suffered by her. Therefore, none of the grounds raised by learned Counsel for the appellant has made out.

12. Perused the judgment under challenge. The same seems to be in consonance with the evidence on record. The view taken by the learned trial Court is the only possible view that could emerge with such quality of evidence on record. There being no merits in the appeal, it deserves to be dismissed. Hence, the following order :-

ORDER

. The Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]