

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1316 OF 2022
IN CRIMINAL APPEAL NO. 283 OF 2022**

**PURUSHOTTAM SHRIRAM GHATUL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for Applicant : Mr. S.J. Salunke
APP for Respondent No. 1 : Mr. R.V. Dasalkar

**CORAM : SMT. VIBHA KANKANWADI &
RAJESH S. PATIL, JJ.
DATED : 26 AUGUST, 2022**

PER COURT:-

1. Heard learned Advocate for the applicant/appellant, learned APP as well as learned Advocate for respondent No. 2. The appellant is the original accused who faced trial in Special Case No. 40/2021, has been sentenced by learned Special Judge under POCSO Act, Majalgaon, District Beed, on 18.02.2022, thus :-

“1. The accused Purushottam S/o. Shriram Ghatul is hereby convicted under Section 235(2) of Code of Criminal Procedure for an offence punishable under Section 376-AB of Indian Penal Code and for offence under section 3 R/w 4 of Protection of Children from Sexual Offences Act, 2012 Act and since the victim is below age of 12 years, the accused shall be punished under Section 5(m) r/w 6 of Protection of Children from Sexual Offences Act, 2012 Act and as per Section 42 of Protection of Children from Sexual Offences Act, 2012 he is sentenced to undergo Rigorous Imprisonment for life which shall mean imprisonment for the remainder of the natural life of the accused and

to pay fine amount of Rs.20,000/- (Rupees Twenty Thousands only) and in default to pay fine amount, he shall further undergo Simple Imprisonment of Six months. Separate sentence under section 376-AB of Indian Penal Code is not inflicted in view of section 42 of Protection of Children from Sexual Offences Act, 2012.

2. The accused is further convicted under Section 235 (2) of Code of Criminal Procedure for an offence punishable under Section 9(m) R/w 10 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo Rigorous Imprisonment of Seven Years and to pay fine amount of Rs.5,000/- (Rupees Five Thousands only) and in default to pay fine amount, he shall further undergo Simple Imprisonment of Three Months.

3. The accused is further convicted under Section 235(2) of Code of Criminal Procedure for an offence punishable under Section 506 of Indian Penal Code and sentenced to undergo Rigorous Imprisonment of One Year and to pay fine amount of Rs. 1,000/- (Rupees One Thousand only) and in default to pay fine amount, he shall further undergo Simple Imprisonment of One month.

4. All the substantive sentences shall run concurrently.”

2. The deposition copies have been made available. The victim is aged nine. She states that on the date of the incident she

had gone to play with the niece of the accused in the house of accused where she was ravished. The niece of the accused was sent by the applicant/appellant outside the house. Apart from the testimony of the victim which stood corroborated by the medical evidence and in the form of testimony of P.W. 6 – Dr. Shital Naik, who had examined her. The parents of the girl have also been examined. Further, there is evidence in the form of seizure of clothes. The defence that has been taken that due to the Khatna of the girl, she had sustained injury to her private part but that has been denied by the parents. Though, it appears that there was an attempt also on the point of false implication but it also appears, *prima facie*, that there was no enmity between the family members. On behalf of the accused, two persons have been examined as defence witnesses; one is mother of the accused and another is his niece. It was tried to be brought on record that they both along with other family members were in the house itself at the time of incident. However, in the cross-examination it appears that it has been brought on record that since they both have the desire that the accused should not be punished, they were deposing accordingly.

3. With this kind of evidence when the Special Judge had come to the conclusion that the offence has been proved against accused beyond reasonable doubt; now, the case is not made out for suspension of sentence.

4. Application stands rejected.

[RAJESH S. PATIL, J.]

[SMT. VIBHA KANKANWADI, J.]