

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

**CRIMINAL APPEAL NO. 340 OF 2019
WITH
CRIMINAL APPLICATION NO. 3204 OF 2021**

Avinash s/o Vilas Jogdand ... Appellant
Versus
The State of Maharashtra ... Respondent

....
Mr. S. J. Salunke, Advocate for appellant
Mr. R. B. Bagul, APP for respondent - State
....

**CORAM : R. G. AVACHAT, J.
DATED : 06th MAY, 2022**

PER COURT :-

. Heard.

2. The appellant has been convicted for the offence punishable under Sections 7 r/w 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer rigorous imprisonment for three (03) years and to pay fine of Rs.5,000/-, in default, to suffer rigorous imprisonment for two (2) months. He has also been convicted for the offence punishable under Section 354A(1)(i)(ii) and 452 of the Indian Penal Code and sentenced to

suffer rigorous imprisonment for three (03) years and to pay fine of Rs.5,000/-, in default, to suffer rigorous imprisonment for two months substantive sentences were directed to run concurrently. No separate sentence has been awarded for the offence under Section 354A of the Indian Penal Code.

3. The appellant allegedly caught hold of the hand of the victim at her residence with an intention to outrage her modesty. The victim was below 18 years of age at the relevant time.

4. Both, the victim and the appellant, are said to have arrived at an understanding. A memorandum of compromise has been placed on record. The victim has now attained the majority and is said to have married.

5. The learned APP opposed the compromise. According to him, the offence is against a child.

6. Application of provisions of Probation of Offenders Act, 1958 have not been ruled out for the offences punishable under the Protection of POCSO Act.

7. Considering the nature of offence and the fact that the parties have arrived at an understanding, this Court proposes to deal the appellant in terms of Section 4 of the Probation of Offenders Act. Moreover, in view of Section 5 of the said Act, this Court direct the appellant to pay the victim a sum of Rs.2,00,000/- (Rupees Two Lakh) as compensation and he shall further deposit a sum of Rs.10,000/- (Rupees Ten Thousand) towards cost.

8. In view of the above, the appeal is disposed of in terms of the following order:

ORDER

- (i) The appeal is partly allowed.
- (ii) The conviction of the appellant is maintained.
- (iii) The appellant shall be released on his entering into a bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety in the like amount, to appear and receive the sentence when called upon during the period of next two years. In the meantime, he shall keep peace and be of good behaviour.
- (iv) The appellant shall deposit a sum of Rs.2,10,000/- with this Court within a period of two weeks. On depositing the said amount, a sum of Rs.2,00,000/- (Rupees Two Lakh)

therefrom be paid to the victim as compensation, immediately. The sum of Rs.10,000/- be credited to the Government Treasury.

9. With these observations, the appeal along with application is disposed of.

[R. G. AVACHAT, J.]

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