

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

CRIMINAL APPEAL NO.395 OF 2019

Ramesh @ Pinya s/o. Mhasu Jadhav,
Age : 33 years, Occ. Agri.,
r/o. Mahegaon Deshmukh,
Near Marathi Z.P. School,
Tq. Kopargaon, Dist. Ahmednagar

..Appellant

Vs.

1. The State of Maharashtra,
Through Police Station,
Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar

2. Miss. XYZ

..Respondents

**AND
CRIMINAL APPEAL NO.404 OF 2021**

Kiran @ Gotya s/o. Bhagwat Kadam,
Age : 33 years, Occ. Nil,
r/o. Chine Vasti, Kumbhari,
Tq. Kopargaon, Dist. Ahmednagar

..Appellant

Vs.

1. The State of Maharashtra,
Through Police Station,
Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar

2. Miss. XYZ

..Respondents

Mr.N.K.Kakade, Advocate for appellant in Cri. Appeal No.395 of 2019

Mr.A.R.Borulkar, Advocate for appellant in Cri. Appeal No.404 of 2021

Mr.A.S.Shinde, APP for respondent no.1

Smt.Kalpana S. Kulkarni (Sonpawale), Advocate for respondent no.2
in both matters

CORAM : R.G. AVACHAT, J.
RESERVED ON : MARCH 29, 2023
PRONOUNCED ON : APRIL 17, 2023

JUDGMENT :-

These appeals arise out of the judgment and order dated 05.03.2019 passed by learned Addl. Sessions Judge-2, Kopargaon, in Sessions Case No.37 of 2017. Vide the impugned judgment and order, the appellants have been convicted for the offence punishable under Section 376-D of Indian Penal Code and therefore, sentenced to suffer rigorous imprisonment for twenty years and directed to pay fine of Rs.10,000/- each with default stipulation.

2. The case of prosecution, as is unfolded from the evidence on record is :-

PW 2 - The prosecutrix (victim) would reside along with her mother PW - 3 and brother at a village in Taluka Kopargaon,

District Ahmednagar. The victim was 65% mentally retarded. Her mother (PW - 3) would go to the field of others to work for earning their living. The victim used to be alone home. Both the appellants were residents of the very village. (For the sake of convenience, the appellant in Criminal Appeal No.395 of 2019 is described as 'A1', while the other appellant as 'A2'). A1 was married. The victim would go to the agricultural field in the village to fetch grass for her she-goat. A1 met her in the field. Since no one was there, A1 took a deep kiss of the victim. He then asked her to go home. While she was returning, A1 pelted earth ball (ढेकुळ). He then used to visit her residence. He would also ask her to meet at various places in the village, such as, near *Khandoba* temple, Masjid, *Motha* Baba temple, etc. During all these visits, A1 had sexual intercourse with the victim. On 2-3 occasions, A2 was in the company of A1. Both of them committed sexual intercourse with her by turn.

3. The mother of the victim realised the victim to have been pregnant. She was, therefore, first taken to a Doctor at Kopergaon. The Doctor told them it being a case of advanced stage of pregnancy and he was, therefore, unable to help them out. The victim was then taken to the Civil Hospital, Ahmednagar. Due to advance stage

of pregnancy, she could not undergo medical termination of pregnancy (MTP). After taking her into confidence, she related her mother (PW 3) that both the appellants had sexual intercourse with her. The mother, therefore, lodged the FIR (Exh.15).

4. Crime vide C.R. No.63 of 2019 came to be registered. The victim's statement was recorded by the Principal of a school meant for mentally challenged children. Both the appellants came to be arrested. Scene of offence panchnama was drawn. Statements of the persons acquainted with the facts and circumstances of the case were recorded. Blood samples of both the appellants were obtained for DNA profiling. Two-three months after registration of the crime, the victim delivered a baby. Blood samples of both victim and her child were obtained and were forwarded to C.F.S.L. for DNA profiling. Before receipt of the CA and DNA reports, the appellants were proceeded against by filing charge sheet. On receipt of those reports, they were made part of the police papers. The case came to be committed to the Court of Addl. Sessions Judge, Kopergaon. Learned Addl. Sessions Judge framed Charge (Exh.7). The appellants pleaded not guilty. Their defence was of false implication.

5. The prosecution examined eight witnesses and produced in evidence certain documents to establish the charge. The trial Court, on appreciation of evidence in the case, convicted and sentenced the appellants, as stated above. In view of the trial Court, the victim was mentally retarded. The victim's evidence would suggest that she did not understand consequences of her acts. The DNA report establishes guilt of A1 beyond reasonable doubt. The victim had no reason to falsely implicate the appellants.

6. Let us re-appreciate the evidence in the case to find, whether the offence has been established.

7. PW 5 – Dr. Ashok was the Medical Officer with Civil Hospital, Ahmednagar. He was Psychiatrist. He had examined the victim on 03.06.2009. According to him, the victim's behaviour was casual and childish. Her academic performance was poor. Her milestone were delayed. Her mental age was not appropriate with her chronological age. He issued certificate (Exh.23).

During cross-examination, PW 5 testified that IQ-34 was the percentage of retardation mentioned in the case paper. The history was taken from the relations of the victim. She was 23 years

of age at the relevant time. He admitted to have specifically mentioned that the certificate was not valid for medico-legal cases. In his opinion, such type of victim might understand physical problems faced by a woman. She may or may not understand monetary transaction. In his opinion, if a person understands monetary transaction and her own problem, the percentage of retardation could be said to have been reduced considerably. He admitted that such a woman would not be covered under the mental retardation. In his opinion, with the passage of time, the mental retardation may get reduced or even progressed.

8. PW 1 – Sneha was Headmistress of the school for mentally challenged children. It is in her evidence that she recorded the victim's statement at Civil Hospital, Ahmednagar. The victim had replied to all her questions. During recording of the victim's statement, neither her parents nor the police officials were present around. Whatever stated by her, all has been recorded. The victim told PW 1 to have not remembered the day, date and time of the incidents. She, however, told that those things happened two-three months before. PW 1 was categorical to state that the victim did not relate any of the incidents, which have been deposed to by the

victim and her mother in their evidence before the Court. As such, it is the case of complete omission in reporting the incident to PW 1.

9. The victim was examined as a witness. The trial Court before commencing her examination-in-chief put her certain questions to find her to be able to give rational answers. The trial Court also found the victim to have understood sanctity of oath. Oath was, therefore, administered to her. PW 1 – Headmistress was kept present for taking her services in interpreting the evidence the victim was to give before the Court. The trial Court recorded that assistance of PW1 was taken for certain questions recorded in examination-in-chief. At the end of recording of the evidence of the victim, the trial Court has put up a note that during cross-examination of the victim, assistance of PW 1 (Headmistress) was not required to be taken.

10. The victim testified to have known to the appellants. It is in her evidence that, A1 would reside in the house on his field. A2 runs a shop. She was studied upto fourth standard. She was unable to read and write. She would visit fields to fetch grass. She would understand of her menstrual cycle. She, however, could not remember when did the incidents took place. According to her, such

incidents took place after every 2 or 3 days. At time of first such incident, it was 3:00 p.m. She was alone home. A1 would roam around her residence. She had been to the field to fetch grass. A1 asked to take grass from his field. She would otherwise fetch grass from the field of one Rokade. A1 met her in the field. His mother and wife were in his house. Both of them were the only persons in the field. A1 took her deep kiss. He then asked her to go home. While she was returning home, he pelted earth ball (ढेकुळ) at her.

11. It is further in her evidence that three days thereafter, A1 came her home. He asked her to meet him near Khandoba temple, lest he would kill her mother and brother. She met A1 in the field of maize crop near Khandoba temple. He had sexual intercourse with her there. The victim did not describe the entire sexual acts. She stated that A1 troubled her at her private part. He inserted something therein. It is further in her evidence that on the second occasion, same thing happened between them at Mahadev temple. It is also her case that A1 had snapped her photographs, while she was taking bath. It is further in her evidence that A1 again called her near another temple (*Babache Mandir*). Same thing happened there. He would call her to meet him at a secluded

place, whereat women would go for answering nature's call. Once, both of them were seen by her cousin (son of maternal uncle). A1 had again sexual intercourse with her in the field of one Balu Rokade. It is further in her evidence that once or twice, A2 was in the company of A1. Both of them did same thing with her. Once, they paid her Rs.100/- each. She threw the money. They asked her to collect the same as it being Laxmi. It is in her evidence that after some days, she ceased to have her periods. Her mother, therefore, took her to the Doctor.

12. The victim was subjected to searching cross-examination. She testified to have known how to cast vote in election. She stated symbols of national political parties. It is further in her evidence that it was she, who would decide on her own, whom to cast vote in election. Her mother goes for work in the fields of others. Cooking is done by her mother. She can identify currency notes of various denominations. She used to go to Smt. Latabai to fetch wages of her mother. She understands "absence from duty". The Masjid (Muslim's Mandir) was near the village. It is a populated area. Women in the village would go to answer nature's call in open at a land adjoining the village. During night time, no

woman from village would go there to answer nature's call unless was accompanied by another woman. The victim too would go for work in the field. The amount received towards her wages used to be spent by her alone. It is further in her evidence that she would visit Kolpewadi for weekly bazar. She used to go alone in public transport vehicle. The house of her maternal uncle was in the nearby of her house. It is further in her evidence that she understood "what a love affair (लफडे)" means. According to her, it is like a T.V. serial. In love affair, there is man and woman. She thought that her mother would come to know about her affair with A1. When Parsha, son of maternal uncle, had seen her in the company of A1, she thought that he would relate the same to her mother. A1 desired to buy a dress for her. She told him not to bring dress since it may come to the knowledge of others. She does not understand how to use cellphone. It is further in her evidence that about 4-5 years before, they have constructed a *Pakka* house. There are bathroom and lavatory. If one is required to take photograph of the person in the bathroom of her house, he will have to enter her house and then take photograph. The household work, except cooking, was done by her.

13. It is further in her evidence that before approaching the police station, she was taken to a private Doctor. All her family members were with her to visit the Doctor at Kopergaon. She had told the Doctor to have stomach pains. The Doctor at Kolpewadi expressed his inability to help them out. The Doctor told that it is the advanced stage of her pregnancy. Her mother and brother both scolded her over such development. The fact that she was pregnant had come to the knowledge of many of the villagers. She did not relate anyone's name to her mother as the person responsible for her pregnancy. It was her cousin – Parsha who named A1. It is further in her evidence that Mahadev temple in the village is located in a populated area. She was confronted with her statement with PW 1 – Headmistress to bring on record the material omissions in her said statement. She admitted that almost her entire evidence before the Court, had not been related by her to PW 1. It is further in her evidence that she had informed the police to have affair with A1. The report with the police was lodged only at the instance of the relations. Her relations desired that A1 should give at least half acre of land to her. She understands about her menstrual cycle. She, however, do not understand as to how a woman becomes pregnant.

14. Then, we have evidence of PW 3 – mother of the victim. It is in her evidence that the victim took education upto fourth standard. Her academic performance was not good. She was, therefore, a drop-out of fourth standard. The victim did not do household work. It was in June, 2017, the victim complained pains in her stomach. She was, therefore, taken to the Doctor at Kopergaon. Then, it was realised that she was pregnant. She, therefore, took the victim into confidence to know the person responsible thereto. Thereupon, the victim told her that it was A1, who would sexually exploit her many a time. The victim also related her that on 2-3 occasions, A2 was in the company of A1. Both of them had sexual intercourse with her by turn. It is further in her evidence that she, therefore, lodged FIR (Exh.15).

15. During cross-examination of PW 3 - victim, it has come on record that she had never sent the victim for purchasing in weekly bazaar. She had accompanied the victim to the Court on the day the victim's evidence was recorded. She inquired with the victim as to what did she depose before the Court. On interaction with the victim, she realised that the victim did not depose properly. She even annoyed with the victim since she deposed before the

Court about her affair and demand of a piece of land. According to PW 3, the victim should not have stated anything in that regard in her evidence. It is further in her evidence that after taking into consideration the evidence of the victim, she had come prepared to depose. It is further in her evidence that until her son came home, the victim had not related anyone's name as the person responsible for her pregnancy.

16. PW 4 – Vilas is the witness to the scene of offence panchnama (Exh.18). Since nothing incriminating was noticed at the scene of offence, the panchnama (Exh.18) is of little consequence for the prosecution.

17. PW 6 – Pappu Kadari was the Assistant Police Inspector with Kopargaon Police Station. He investigated the crime. It is in his evidence that the blood samples of both the appellants were forwarded by him to C.F.S.L. for DNA profiling. A copy forwarding letter is at Exh.25.

It has come in his cross-examination that he did not record the statement of the victim. The victim's statement was recorded by PW 1 – Headmistress of school meant for mentally

challenged children. He did not have separate panchnama about receipt of DNA kit.

18. PW 7 – Dr.Kundan testified that he obtained blood samples of both the appellants for DNA profiling. He denied to have not obtained samples properly.

19. PW 8 – Sahebrao was Police Officer, who did some part of the investigation of the crime. It is in his evidence that he issued a letter for obtaining blood samples of the victim and her new-born for DNA profiling. Those were obtained when both victim and her child were in Sassoon Hospital, Pune. Same were forwarded to C.F.S.L. for analysis and report.

The CA and DNA reports (Exhs.20 and 21) indicate A1 as the biological father of the child delivered by the victim.

20. Afore-stated is the evidence adduced by the prosecution to bring home the charge.

21. Both learned counsel for the appellants would submit that the testimony given by the victim and PW 1 – Headmistress besides a note made by the trial Court before and after recording of

the victim's evidence, would go a long way to suggest the victim to have not been mentally challenged. According to them, the disability certificate of the victim was obtained in October, 2014, i.e. long before the alleged crimes took place. The Medical Officer, who issued the said certificate, has made a note on the certificate itself that the same would not be valid for medico-legal case. The evidence of the Doctor who issued the said certificate would suggest that with the passage of time, the percentage of disability gets reduced. The victim's evidence that she understood currency notes of various denominations and whom to vote in election, suggest that her so called mental retardation was not such as to render her unable to understand the nature and consequence of the act to which she gave her consent. Attention of the Court was also adverted to the cross-examination of the victim and her mother, to suggest that the victim was major and it may, at the most, be a case of consensual relationship. On the question of DNA report, learned counsel relied on the judgment of the Apex Court in the case of **Rahul Vs. State of Delhi, Ministry of Home Affairs and anr., 2023 Cri.L.J. 1**, to submit that there is no evidence as to properly taking blood samples, preservation thereof and even analysis. He would further submit that the samples of the appellant were taken for analysis six months

after they were obtained. The expert who did analysis has not been examined. The DNA report would, therefore, be of little consequence. He would further submit that the blood samples of both the appellants were either obtained simultaneously or one after another at the same time. There is nothing to indicate as to how a particular blood sample was to be identified to be that of one of the appellants. According to learned counsel, both the appellants have been behind the bars for little over eight years. According to them, it is a case for acquittal. They, therefore, urged for allowing the appeals.

22. Learned APP for State and learned counsel for the victim, would, on the other hand, submit that the disability certificate (Exh.23), undoubtedly, indicates that the victim was mentally challenged. Assistance of an expert in interacting with children of such disability, was taken during recording of the evidence. The evidence of the victim would, undoubtedly, suggest that she was childish and her mental age was not in conformity with her chronological age. Relying on the Apex Court's judgments in the cases of (i) **Chaman Lal Vs. State of Himachal Pradesh, 2020 DGLS (SC) 675**; and (ii) **Anil Ramesh Kolhe Vs. State of Maharashtra and**

ors., 2022 DGLS (Bom.) 3155, it is submitted that the suggestion given to the victim in her cross-examination would suggest A1 to have admitted his relation with the victim. In his examination under Section 313 of the Code of Criminal Procedure, however, he did not come with a case that it is a consensual relationship. Both learned counsel reiterated the reasons given by the trial Court, in support of the impugned order of conviction.

23. The disability certificate (Exh.23) of the victim would suggest the victim to have been mentally challenged. It was 65% mental retardation. Said certificate was issued in October, 2014. The certificate itself indicates that it was valid for five years, i.e. upto October, 2019. The incidents took place in January, 2017. The certificate contains a clause to suggest it to be not valid for medico-legal case. It is also true that post registration of the FIR, the victim was not examined by a Psychiatrist, to ascertain as to whether the victim was mentally retarded and thereby, unable to understand the nature and consequence of the act to which she gave consent at the relevant time.

24. It is also true that the trial Court, after recording of the victim's evidence, put up a note that no assistance was required to

be taken of PW 1 – Headmistress of the school meant for mentally challenged children. PW 1 also testified in her evidence that the victim gave rational answers to all her questions. Admittedly, the Investigating Officer, on registration of the FIR, has not recorded the victim's statement. He, however, got the victim's statement recorded by PW 1. According to learned APP, the statement recorded by PW 1 was not the victim's statement under Section 161 of Cr.P.C. According to him, whatever the victim has deposed to before the Court, therefore, would go in evidence as it is, for want of omissions and contradictions to be brought on record. In view of this Court, non recording of statement under Section 161 of Cr.P.C. would be fatal for the prosecution, since the appellants did not get right to have effective cross-examination of the victim with reference to her previous statement. It, however, appears that the victim's statement was not recorded by the Investigating Officer considering her mental retardness. He got it recorded through PW 1. Admittedly, in her statement recorded by PW 1, the victim did not state anything or any of the incidents of sexual assault either by both or any of the appellants. She has, however, stated in her statement that the things continued to happen after every 3-4 days.

25. Admittedly, the victim conceived and delivered a baby. This fact, undoubtedly, indicate that she had been subjected to sexual intercourse. The question is whether it was with her consent or taking advantage of her mental retardation so as to unable to understand the nature and consequence of the act to which she gave her consent.

26. Section 90 of the Indian Penal Code reads thus:-

90. Consent known to be given under fear or misconception.—A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of insane person.—if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

Consent of child. —

27. The trial Court although administered the victim oath since she understood sanctity thereof, it has been specifically recorded after initial 4-5 questions put to her in her examination-in-chief, as under :-

“..... इथं पर्यंतची सरतपासणी सरकारी वकिलांनी आणि कोर्टाने प्रश्न विचारून घेतली परंतु यापुढील प्रश्न हे साक्षीदारास कळत नसल्यामुळे सौ. स्नेहा महाजन यांची मदत घेण्यात आली... ..”

28. Moreover, during the questions put to her in the cross-examination, her response thereto was of childish nature. For emotional relationship or love affair, she referred it as "लफडे" (affair). To understand meaning thereof, she was required to be referred to T.V. serials, wherein relationship between a hero and a heroine is termed to be an affair. She was specifically suggested in her cross-examination by learned counsel representing A1 that while her cousin - Parsha had seen her with A1, she was afraid that Parsha may disclose the same to her mother. This suggestion goes a long way to indicate A1 to have admitted his relationship with the victim. She was further suggested in her cross-examination that she desired him to gift her a new dress. According to her, A1 was about to buy a new dress for her but it was she, who asked him not to bring, since it may come to the notice of others. Her evidence further indicates that she was still unable to operate a cellphone. To top it, for her case of sexual intercourse it was her response that A1 inserted something in her private part. It was in her evidence that A1

troubled her at her urinating place. The same indicates that the victim was unable to understand the nature and consequence of her submitting to sexual intercourse by A1. In such circumstances, it has, therefore, to be said that it was without her consent and against her will.

29. It is true that the victim testified that she did not disclose anybody's name to be responsible for her pregnancy until the police report was lodged by her mother. It has, therefore, to be assumed that the name of A2 has been incorporated in her FIR by the informant's mother on her own. It is reiterated that the Investigating Officer did not record the victims' statement. The statement recorded by PW 1 - Headmistress does not contain the name of A2. His involvement in the crime has been disclosed before the Court by the victim for the first time. Admittedly, none had seen A2 either together or in a compromising position with the victim. There is no other evidence against this appellant (A2). He, therefore, deserves to be granted benefit of doubt. The victim's evidence that both the appellants, on one or two occasions, had sexual intercourse with her by turn, cannot be relied on for want of there being victim's previous statement in that regard. More so, there is no any other evidence suggesting A2's involvement in the

crime. It, therefore, could not be said to be a case of gang rape. The trial Court, therefore, ought not to have convicted both the appellants for the offence under Section 376-D of I.P.C.

30. It is reiterated that the suggestion given on behalf of A1 to the victim in her cross-examination, undoubtedly, indicate him to have had relationship with her. The victim's evidence in that regard that on many times, A1 had sexual intercourse with her at various places, gets reinforced. Furthermore, there is DNA report (Exh.21.) indicating A1 to be the biological father of the child delivered by the victim. While the DNA report was admitted in evidence, no objection for its admissibility was raised before the trial Court.

31. PW 6 – Kadari was API at the relevant time. It is in his evidence that he obtained blood samples of both the appellants for DNA profiling and forwarded the same to CFSL on 28.06.2017. PW 7 – Dr.Kundan testified to have obtained blood samples of both the appellants on 28.06.2017 in the kits separately provided by the police. His evidence would further indicate that the containers of the blood samples were sealed in the presence of panchas. A proforma was filled-in . He then handed over the samples in sealed condition

to A.S.I. - Khandagale. The record indicates that on the very next day, those samples were transmitted to CFSL, Pune. There bound to be some delay in obtaining the blood samples of the victim and the new born, since the victim delivered child two month after the blood samples of the appellants were obtained. No sooner the blood samples of both victim and her child were obtained in Sassoon Hospital, Pune, those were forwarded to the very CFSL on 18.09.2017. The DNA report submitted by the CFSL indicates that the seals on the samples received for analysis, were intact. As such, the DNA report indicating A1 to be the biological father of the child, could not be doubted. Reliance on the judgment of this Court in the case of **Suresh s/o. Devidas Malche Vs. The State of Maharashtra, decided on 15.03.2023 (Criminal Appeal No.306 of 2016)** would be of no assistance for A1 since, after a period of little over one year of submitting the samples for DNA profiling, the analysis was done and the report was submitted. A1 was married and blessed with child. He took disadvantage of the victim's mental retardness. As such, offence under Section 376(2)(I) of IPC gets proved against him. Said offence is punishable with rigorous imprisonment for a term, which shall not be less than 10 years but which may extend to life imprisonment.

32. As stated above, the offence of gang rape has not been proved against the appellants. The order of conviction and consequential sentence recorded by the trial Court against both the appellants for the offence of gang rape is, therefore, liable to be set aside. A2 is entitled for acquittal. A1 is liable for conviction for offence under Section 376(2)(I) of IPC. Considering the fact that A1 has wife and minor child to look after, this Court proposes to impose minimum sentence of 10 years' rigorous imprisonment and fine of Rs.10,000/-.

33. In the result, Both the appeals stand disposed of in terms of the following order:-

- (i) Criminal Appeal No.395 of 2019 is partly allowed.
- (ii) Criminal Appeal No.404 of 2021 is allowed.
- (iii) The order of conviction and consequential sentence of both the appellants for the offence punishable under Section 376-D of Indian Penal Code is hereby set aside. Both of them stand acquitted of the said offence.
- (iv) Instead, appellant in Criminal Appeal No.395 of 2019 - Ramesh @ Pinya s/o. Mhasu Jadhav (A1) is convicted for the offence

punishable under Section 376(2)(I) and therefore, sentenced to suffer rigorous imprisonment for ten (10) years and pay fine of Rs.10,000/- (Rupees Ten Thousand).

(v) Appellant in Criminal Appeal No.404 of 2021 – Kiran @ Gotya Bhagwat Kadam (A2) is in jail since the date of his arrest, i.e., from June, 2017. He be set at liberty immediately, if not required in any other case.

(vi) The amount of fine if deposited by the appellant in Criminal Appeal No.395 of 2019 - Ramesh @ Pinya s/o. Mhasu Jadhav (A1) against the conviction for the offence under Section 376-D of Indian Penal Code, shall be appropriated towards the fine to be paid by him for the offence under Section 376(2)(I) of I.P.C. In default of payment of fine amount, he shall undergo rigorous imprisonment for two (2) months.

(vii) Appellant – Ramesh @ Pinya s/o. Mhasu Jadhav too is in jail since 27.06.2017. He be given due set off.

(viii) Fine amount, if any, deposited by the appellant in Criminal Appeal No.404 of 2021 – Kiran @ Gotya, be refunded to him.

(ix) Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.8,000/- (Rupees Eight Thousand) in each appeal.

[R.G. AVACHAT, J.]

KBP