



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

**CRIMINAL APPEAL NO. 918 OF 2024**

XYZ  
VERSUS

SHUBHAM DNYANOBA DAHIPHALE AND OTHERS

...

Ms. Priyanka R. Deshpande, Advocate for Appellant  
Mr. R.B. Dhaware, APP for Respondent No.5/State

...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 10<sup>th</sup> OCTOBER, 2024**

**PER COURT :**

1. Heard.
2. By this application filed under Section 374 of Cr.P.C. appellant challenges judgment and order of acquittal dated 09/08/2024, passed by learned Special Judge, Ahmedpur, in Special Case (POCSO) No.08/2023.
3. Respondent Nos. 1 to 4 / accused were charged for commission of offences punishable under Sections 452, 323, 354 r/w 34 of Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012. On the basis of report lodged by victim Crime No.73/2023 for offence punishable under Sections 354, 452, 324, 323, 504, 506 r/w 34 of I.P.C. and Sections 7 and 8 of Protection of Children from Sexual Offences Act, was registered against accused persons, alleging that on 03/04/2023 at about 06:00 p.m. when the victim aged 17 years was at her house

accused No.1 Shubham and her cousin brother accused No.2 Wadju entered her house. Accused No.1 gagged her mouth by putting cotton bud and held her two hands, moved his hand on her cheek and scuffled with her, pulled her hairs and made her fall on the ground, then he pressed her breasts. She made hue and cry, and her brothers and mother came on the spot. Accused No.2 Wadju assaulted them with iron rod on back and also gave fists and kick blows. Accused Santosh caught hold neck of victim's mother, and held her saree with bad intention and touched her. Accused No.4 Swati threw chili powder. All accused assaulted them.

4. In support of it's case, prosecution has examined eight witnesses. Trial Court has acquitted accused persons. Hence, this appeal.

5. Heard learned advocate for appellant and learned APP for State. Perused the grounds raised in the appeal memo and the impugned judgment and order.

6. It appears from record that there is delay in lodging the FIR. There are discrepancies in the evidence of prosecution witnesses. The defence of accused that accused No.1 was having love affair with victim appears to be probable in view of the admissions given by victim and her mother. The age of victim is not properly proved on record. Considering these aspects and by

assigning proper reasons, Trial Court has rightly recorded acquittal of accused.

7. View taken by the Trial Court is possible view which is not liable to be interfered with. Appeal being devoid of merit is dismissed.

**(NITIN B. SURYAWANSHI, J.)**