



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPEAL NO. 76 OF 2022

APPELLANT : Aakash S/o. Bankat Yedani, Aged
about 27 Years, Occ: Labour, R/o.
Taroda, Tahsil : Katol, District :
Nagpur.
(Presently at Central Prison, Nagpur)

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through Police
Station Officer, Police Station
Kondhali, District Nagpur.
2. Complainant in FIR No.381/18,
registered at Police Station Kondhali,
Dist. Nagpur.

Mr. R.M. Daga, Advocate for the Appellant.
Ms. M.R. Kavimandan, APP for Respondent No.1/State.
Mr. Anirudh Ananthakrishnan, Advocate (appointed) for
Respondent No.2.

CORAM : G. A. SANAP, J.
DATED : 23rd SEPTEMBER, 2024.

JUDGMENT

. In this appeal, challenge is to the judgment and order
dated 30.08.2021, passed by the learned Extra Joint Additional

Sessions Judge, Nagpur, whereby the learned Judge convicted the accused for the offences punishable under Sections 376(2)(3) and 506 of the Indian Penal Code, 1860 (for short, “IPC”) and under Section 5 punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, “POCSO Act”), and sentenced him to suffer rigorous imprisonment for twenty years and to pay a fine of Rs.20,000/- and in default to suffer rigorous imprisonment for one year for the offence punishable under Section 376(2)(3) of the IPC; rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default to suffer rigorous imprisonment for one month for the offence punishable under Section 506 of the IPC. No separate sentence has been awarded for the proved offence under Section 5 punishable under Section 6 of the POCSO Act.

02] BACKGROUND FACTS:

The informant is the mother of the victim girl. The crime was registered on the report of the mother of the victim against the accused. The case of the prosecution, which can be gathered from the report dated 4th November, 2018 and other documents relied upon by the prosecution, is that the victim, on

the date of the incident, was 16-17 years old. The informant has three daughters. The eldest daughter of the informant is married. The victim is mentally unstable. On 11th November, 2018, the victim fell ill, and therefore her mother took her to Government Hospital, Katol. The doctor examined the victim. The doctor, after conducting some tests, opined that the victim was carrying pregnancy of 2½ months. The informant made an enquiry with the victim about her pregnancy. The victim told the informant that the accused, in her absence, would come to the house and commit sexual intercourse with her against her wish. The accused would commit intercourse with her sometimes in the compound of the house and sometimes in the bathroom of the house. The victim also told the informant that she did not disclose this to her because the accused had threatened to kill her in case she disclosed it to anyone. The informant apprised her husband about this fact. They went to Kondhali Police Station. The informant lodged the report. On the basis of her report, a crime bearing No.381/2018 was registered against the appellant.

03] PW-15 carried out the investigation. He forwarded the victim for medical examination. He arrested the accused. He referred the victim to Indira Gandhi Medical College, Nagpur, for

her internal and medical examination. He collected the documents with regard to the birth date of the victim. The blood samples of the victim as well as of the accused were collected for DNA analysis. The sample of the abortus of the victim was obtained and sent for DNA analysis. After completion of the investigation, PW-15 filed the charge-sheet against the accused.

04] The learned Judge framed the charge against the accused. The accused pleaded not guilty. His defence is of totally denial and false implication, as he had refused to marry with the victim. It is his further defence that the cousin brother of the victim had sexually abused the victim, and when the pregnancy came to light, he was falsely implicated. The prosecution examined 16 witnesses to bring home the guilt of the accused. The learned Judge, on consideration of the evidence, held the accused guilty and convicted and sentenced him as above. The appellant has challenged this judgment and order in this appeal.

05] I have heard Mr. R.M. Daga, learned advocate for the appellant/accused, Ms. M.R. Kavimandan, learned APP for respondent No.1/State and Mr. Anirudh Ananthakrishnan, learned advocate appointed for respondent No.2. Perused the record and

proceedings.

06] Learned advocate for the appellant submitted that while narrating the history of assault to the Medical Officer (PW-9), the victim had stated that the assailant was her cousin brother. Learned advocate submitted that this fact has been admitted by the doctor (PW-9) in her evidence. This fact, in the submission of the learned advocate, supports the defence of the appellant. As far as the age of the victim is concerned, learned advocate submitted that, in the cross-examination, she has categorically stated that her real birth date is 1st July, 2000. She has categorically admitted that the birth date as 1st July, 2003 stated by her in her examination-in-chief was on the say of her mother. The admissions given by her in her cross-examination are sufficient to discard the evidence of PW-12 Gram Sevak.

07] Learned advocate pointed out that since the informant and the victim realised that the accused was wrongly roped in this crime, at the latter stage of the trial, they filed an application for compounding of the offence. The said application was rejected, inasmuch as the offences are non-compoundable. As far as the DNA examination report is concerned, learned advocate submitted

that the said evidence cannot be made the basis of the conviction of the appellant. The prosecution has not examined the Medical Officer, who had collected the sample of the abortus of the victim. There is no evidence as to when the victim was admitted in the Mayo hospital, by whom the sample was collected and by whom the sample was packed and sealed. Learned advocate submitted that the Investigating Officer is silent about the procurement of the DNA kit for obtaining the sample of the abortus of the victim. The carrier of the said sample has not been examined. It is submitted that in the absence of proper documentation of collection, packing, and preservation of the sample, the DNA report cannot be made the basis of the conviction of the accused.

08] Learned advocate submitted that the evidence of the Chemical Analyzer (PW-16) is not sufficient to take care of this fundamental drawback in the case of prosecution. Learned advocate submitted that, in view of the candid statement by the victim about her assailant before the Medical Officer, the evidence of the victim and her mother implicating the accused cannot be believed. Learned advocate submitted that, in the absence of examination of the Medical Officer, who had collected the sample of the abortus of the victim, the mode and manner of collection of

the sample, and the preservation of the sample, a reasonable doubt can be created about the involvement of the accused in the crime. Learned advocate submitted that the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt. The appellant is, therefore, entitled for acquittal.

09] Learned APP submitted that in the cross-examination of the victim after her recall, she has given admissions favourable to the accused. However, on the basis of these admissions with regard to her date of birth, the core and crux of her evidence in the examination-in-chief would not be wiped out. Learned APP submitted that the prosecution has adduced cogent and concrete evidence to prove the birth date of the victim, and therefore, the learned Judge was right in holding that, on the date of the incident, the victim was below 18 years of age. Learned APP pointed out that the mother of the victim has categorically stated that the victim was born in the year 2003. As far as the medical evidence is concerned, the learned APP submitted that, on examination of the victim, the doctors found that she was carrying pregnancy of 2½ months. She was examined in Mayo Hospital by the doctor, and the sample of the abortus was collected. In the submission of the learned APP, failure to examine the Medical Officer, who had

collected the sample of the abortus, will not be fatal to the case of prosecution, inasmuch as the Chemical Analyzer (PW-16) has stated that the sample was received in a sealed condition. It has been corroborated by contemporaneous documentary evidence. Learned APP submitted that similarly, failure to examine the carrier of the said sample would also not be fatal to the case of the prosecution. Learned APP submitted that the accused took advantage of the intellectual disability of the victim and ravished her. Learned APP submitted that the prosecution, on the basis of the evidence of PW-7 and PW-14, has proved that the victim was suffering from border line intellectual disability. Her IQ is 55, and her mental age was 8 years and 3 months. Learned APP submitted that the learned Judge has properly appreciated the evidence and recorded the cogent reasons in support of his finding.

10] Learned advocate Mr. Anirudh Ananthakrishnan appointed to represent respondent No.2 has adopted the submissions made by the learned APP.

11] At the outset, it would be appropriate to consider the submissions made by the learned advocate for the appellant as well as the learned APP with regard to the DNA report at Exh.82.

Before appreciating the submissions and analysis of the relevant evidence touching this aspect, it would be apposite to consider the two decisions of the Hon'ble Apex Court. First, in the case of ***Mukesh and Anr. Vs. State for NCT of Delhi and Ors. [2017 (6) SCC 1]***, wherein the Hon'ble Apex Court has held that the DNA technology accurately identifies the criminals. The DNA technology as a part of Forensic Science and scientific discipline not only provides guidance to investigation but also supplies the Court accurate information about the tending features of identification of criminals. It is held that the DNA report has to be accepted unless it is absolutely dented and for non-acceptance of the same, it must be established that there had been no quality assurance as well as control. If the sampling is proper and if there is no evidence as to tampering of the samples in any manner, the DNA report is to be accepted.

12] The Hon'ble Apex Court in the case of ***Rahul Vs. State of Delhi, Ministry of Home Affairs and Another with connected appeals [(2023) 1 SCC 83]*** has held that as follows :

“The DNA evidence is in the nature of opinion evidence as envisaged under Section 45 and like any other opinion evidence, its probative value varies from case to case.

If DNA evidence is not properly documented, collected, packaged, and preserved, it will not meet the legal and scientific

requirements for admissibility in a court of law. Because extremely small samples of DNA can be used as evidence, greater attention to contamination issues is necessary while locating, collecting, and preserving DNA evidence can be contaminated when DNA from another source gets mixed with DNA relevant to the case. This can happen when someone sneezes or coughs over the evidence or touches his/her mouth, nose, or other part of the face and then touches area that may contain the DNA to be tested. The exhibits having biological specimen, which can establish link among victim(s), suspect(s), scene of crime for solving the case should be identified, preserved, packed and sent for DNA profiling.

The DNA may be more useful for purpose of investigation but not for raising any presumption of identity in a court of law.”

13] The Court is required to keep in mind the above-stated legal position while appreciating the DNA evidence. In this case, the Medical Officer, attached to Mayo Hospital, Nagpur, who according to the prosecution had collected the abortus sample of the victim, has not been examined. Similarly, the woman police constable, Arti, who had carried the sample to Chemical Analyzer, has also not been examined. The evidence of the Investigating Officer (PW-15) on this point is the only evidence on record. Perusal of his evidence would show that he was not in any way involved in the process of examination of the victim, collection of the sample, and carrying the sample to the Chemical Analyzer. Perusal of his evidence would show that he had procured the DNA

kits from the Office of Chemical Analyzer. He is silent about the number of DNA kits procured by him.

14] PW-17 police constable has been examined to prove that he had procured two DNA kits from the Office of R.F.S.L., Nagpur and carried the samples to R.F.S.L., Nagpur. Exh.85 is the requisition letter for the DNA kit for the collection of the blood sample of the accused for DNA examination. Exh.86 is the requisition for providing the DNA kit to obtain the sample of the victim for DNA examination. As far as the blood samples of the accused and the victim are concerned, there is hardly any dispute. The main question is with regard to the collection of the sample of the abortus of the victim for DNA examination.

15] The Investigating Officer nowhere stated that he had procured DNA kit from R.F.S.L., Nagpur, for the collection of the sample of the abortus of the victim. There is only a requisition letter, at Exh.76, addressed by the Investigating Officer to the Medical Officer, Mayo Hospital, Nagpur, for collection of the samples of the abortus of the victim. The prosecution has not examined the doctor, who had performed the abortion of the victim. There is no evidence with regard to the date and time of the

abortion. There is no evidence with regard to the collection of the sample of the abortus of the victim. The prosecution has not proved the form filled by the Medical Officer at the time of the collection of the sample of the abortus of the victim. The Investigating Officer had requested the Medical Officer, Meyo Hospital, Nagpur, that the sample was required for DNA analysis. The Medical Officer was required to fill the identification form at the time of the collection of the sample. The sample was required to be collected in the presence of the independent witnesses. The examination of the doctor is necessary to prove the quantity of the sample collected, the mode and manner of collection, packing and sealing of the sample, the container used for collection of the sample, and the care and precautions taken while collecting the sample. The authenticity of the DNA report depends upon the flawless process and procedure undertaken at the time of collection of the DNA sample. If proper precaution is not taken, then the possibility of contamination of the sample cannot be ruled out. In the absence of the examination of the Medical Officer, there is a vacuum as to the procedure followed and the precautions taken at the time of the collection of the sample as well as the person to whom the sample was handed over.

16] In this case, the carrier, who according to the Investigating Officer was Ms. Aarti, has not been examined. Perusal of the record would show that the photocopy of the Form No.2 filled by the Medical Officer at Mayo Hospital by Dr. Rujuta is on record. Similarly, the case paper styled as 'abortion notes' is on record. The original Form No.2 is not produced on record. In the absence of the examination of the doctor, the form filled at the time of collection of the evidence and the abortion notes have not been proved. Similarly, the Chemical Analyzer at the time of his examination in the Court did not produce any record and particularly the copy of the Form No.2 received from Mayo Hospital with the DNA sample.

17] It is to be noted that PW-16, at the time of his evidence, was required to place on record all the relevant documents, including the copy of the requisition letter received from the police station and the identification form filled by the doctor at the time of collection of the sample. Similarly, the Chemical Analyzer was required to produce before the Court the chain of custody form of all the samples. It needs to be stated that, in DNA division of the F.S.L., there are two sections. One is biological section and another is DNA section. Perusal of the DNA report would show that the

DNA was extracted from the blood samples of the victim, accused, and abortus of the victim. Perusal of the DNA report would show that the independent report as to the extraction of DNA from the abortus of the victim has not been placed on record. Perusal of report would indicate that PW-16 had extracted the DNA from the samples in a biological section as well as analyzed the extracted DNA in the DNA section. The evidence of PW-16 on this aspect is not clear. In his evidence, PW-16 has not stated anything about the custody and storage of the samples. Failure on his part to produce the chain of the custody form is a serious lapse in this case.

18] The prosecution has not examined the carrier of the DNA samples. In my view, this is a very vital aspect which goes against the case of the prosecution. The doctor, who had collected the sample of the abortus of the victim, has not been examined. In the absence of examination of the Medical Officer, who had collected the said sample, and the woman police constable, Aarti, who had carried the said sample to the Chemical Analyzer, a vacuum has been created. The evidence on record, therefore, is not sufficient to prove that the DNA sample was properly documented, collected, packed, and preserved. In the absence of the examination of the medical Officer, it has not been proved that the DNA kit was

procured from the R.F.S.L, Nagpur, or any container available with the hospital was used for the collection of the sample. The doctor is required to depose before the Court about the precautions taken while collecting the sample for DNA analysis.

19] It is the defence of the accused that the victim, while narrating the history of assault to the Medical Officer, has stated that the assailant was her cousin brother. In order to dispel this doubt created on record, the prosecution was required to examine the Medical Officer, who had collected the sample of the abortus and the woman police constable, who had carried the sample to the hospital. The evidence of the Chemical Analyzer, in the facts and circumstances, is not sufficient to cure this manifest defect in the case of the prosecution. In my view, this defect would go to the root of the finding or opinion of PW-16 Chemical Analyzer. In my view, therefore, the report at Exhs.82 and 83 cannot be made use of against the accused. This evidence has to be excluded for consideration.

20] The next important aspect is with regard to the age of the victim. The prosecution has examined the Gram Sevak (PW-12), attached to Panchayat Samiti, Katol. He had produced

the original birth register of Gram Panchayat, Khairi, for the years 2001 to 2003. Though he had brought the register, the entry from the register was not exhibited. The copy of the said entry obtained by the Investigating Officer was marked as Exh.48. This documentary evidence shows that the victim was born on 1st July, 2003. Learned advocate for the appellant in his cross-examination invited the trouble by asking question with regard to the birth certificate produced on record. The said certificate was, therefore, marked as Exh.48. The mother of the victim has not categorically stated the date of birth of the victim. She has not stated that the information about the birth of the victim was reported to the Gram Panchayat. The evidence of the mother of the victim is silent about the birth entry of the victim in the Gram Panchayat record. In her report at Exh.13 also, she has not stated the date of the birth of the victim. She has only stated that the victim was 16-17 years old.

21] The evidence of the victim (PW-1), in my view, would therefore require scrutiny. In her examination-in-chief, she has stated that her birth date is 1st July, 2003. The victim has stated that she was not admitted in the school. It has come on record that she was suffering from partial mental disability. Her cross-examination recorded on 29th January, 2021 would be very

relevant. She has categorically stated that initially in her examination-in-chief, her birth date as 1st July, 2003 was stated by her on the say of her mother. She has categorically stated that her real birth date is 1st July, 2000. She has also admitted that her birth date was not recorded in the school and in the Gram Panchayat record. She has further stated that, after this incident, she and her mother went to the Gram Panchayat and made an enquiry about her birth date recorded in the office. She has stated that at that time they were informed that her birth date was not recorded. She has categorically stated that her mother then requested the Officer to record the entry of her birth date as 1st July, 2003. She has stated that, at the time of the incident, she was above 18 years of age. It is to be noted that this wisdom dawned upon the victim on filing of the application before the Court for compounding the offences. Be that as it may, her candid admissions cannot be ignored. Failure on the part of the learned Judge to admit the original entry from the register as evidence has left a scope for argument. In the teeth of the candid admissions given by the victim, a doubt is created about this record as well. In view of this evidence, it is not possible to accept the case of the prosecution that the victim on the date of the incident was below 18 years of age and, as such, a child as defined under Section 2(1)(d) of the POCSO Act.

22] The examination of the victim by the doctors PW-7 and PW-14 would show that the victim was suffering from border line intellectual disability. Her IQ is 50, and her social quotient is 55. The doctor opined that she had mild impairment in intellectual functioning. PW-14 has deposed that, as per the medical examination, her mental age was 8 years and 3 months. This evidence is sufficient to prove that the victim was suffering from border line intellectual disability.

23] As far as the occurrence of the incident is concerned, the evidence of the victim and her mother is very relevant. The victim did not complain about penetrative sexual assault on her by the accused. The mother had taken the victim to the hospital when she was ill, and at that time, after examination, the doctor found that she was carrying pregnancy of 2½. The mother then made an inquiry with the victim, and the victim told her that the accused had committed forcible sexual intercourse with her. The victim has stated that the accused had threatened to kill her if she disclosed the incident to anyone. The victim was confronted with the history of the assault narrated by her to the doctor, particularly the name of the assailant. She has denied the suggestion that her cousin brother was the assailant. The mother was present with the victim when

she was examined by the doctor. If the accused was involved in the repetitive penetrative sexual assault, then the victim would not have missed his name while narrating the history of assault to the doctor. The accused is married. He has one child. The accused, before this incident, was known to the victim. The victim, as per the prosecution, was 16 years old. Considering the partial mental disability, she was able to understand the consequences of the act of this nature committed with her. She would have disclosed the same to her mother. Similarly, her family members would have noticed the same.

24] In this background, it would be necessary to consider the evidence of PW-9 Medical Officer, who had examined the victim. Exh.38 is the medical examination certificate. At column No.15, the Medical Officer has recorded the history of assault. While narrating the description of the assailant, the victim stated that he was 23 years old. The victim has stated that the assailant was her cousin brother. The name of the assailant was not stated by the victim. The doctor had no reason to record the wrong history of the assault and the information about the assailant. The mother was with the victim. It needs to be stated that the mother, who was with the victim, would have immediately corrected the mistake and

informed to the doctor the name of the assailant. In my view, therefore, the evidence of the victim, her mother, and the evidence of the Medical Officer creates doubt about the actual assailant. The DNA report, in view of the above discussion, cannot be relied upon as an authentic piece of evidence against the accused. The credibility and the authenticity of the said report has been eroded on account of the fundamental lacunas in the case of the prosecution. In view of this, I conclude that the prosecution has miserably failed to prove the guilt of the accused. A sufficient doubt is created about the involvement of the accused in this crime.

25] Before parting with the matter, it is necessary to place on record the observations of the Hon'ble Apex Court in the case of *Rahul Vs. State of Delhi, Ministry of Home Affairs and Another (supra)*. While hearing the criminal appeals, it is noticed that proper care was not taken by the Presiding Officers while recording the evidence. The prosecution did not place on record a plausible explanation for the non-examination of the Medical Officer, who had collected the sample of the abortus of the victim. The learned Judge was required to be very careful. The learned Judge was aware that the DNA report has been placed on record by the prosecution.

Before exhibiting the DNA report, the learned Judge ought to have exercised his powers and made an enquiry as to why the relevant record from Mayo Hospital is not produced. In fact, the learned Judge, before closing the matter, was required to question the Prosecutor about the reasons for the non-examination of such a vital and important witness. It is to be noted that the evidence recorded by a Judge in a case is the heart, soul, and foundation of a case. If the foundation is weak, then the edifice of the case of prosecution and the judgment of conviction is bound to fall flat in the appeal against the said judgment. The mistake committed while recording the evidence cannot be corrected or rectified. The mistake committed while appreciating the evidence one way or the other can be rectified in the appeal. Therefore, the most important duty of the Judge recording the evidence is to ensure the meticulous recording of the evidence. It is noticed while hearing the appeals that proper care is not taken while recording the evidence. Similarly, it is noticed that everything is left to the decision and discretion of the Prosecutor. In fact, if such an important witness is not examined by the Prosecutor, then it is the duty of the learned Judge to question the Prosecutor and take on record the reasons stated by the Prosecutor for the non-examination of such an important witness. The learned Judge can

make use of these reasons and, in a fit case, can report the conduct of such a Prosecutor to the Director of Prosecution as well as the High Court. In this context, it is necessary to extract the observations made by the Hon'ble Apex Court in the case of ***Rahul Vs. State of Delhi, Ministry of Home Affairs and Another*** (supra).

Paragraph 44 is the relevant para. It is extracted below:

“44. This Court while not accepting the submission that it was improper for the Court to have interjected during the course of cross-examination of the witness, had observed in State of Rajasthan v. Ani [(1997) 6 SCC 162] thus:

“11. We are unable to appreciate the above criticism. Section 165 of the Evidence Act confers vast and unrestricted powers on the trial court to put “any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant” in order to discover relevant facts. The said section was framed by lavishly studding it with the word “any” which could only have been inspired by the legislative intent to confer unbridled power on the trial court to use the power whenever he deems it necessary to elicit truth. Even if any such question crosses into irrelevancy the same would not transgress beyond the contours of powers of the court. This is clear from the words “relevant or irrelevant” in Section 165. Neither of the parties has any right to raise objection to any such question.

12. Reticence may be good in many circumstances, but a Judge remaining mute during trial is not an ideal situation. A taciturn Judge may be the model caricatured in public mind. But there is nothing wrong in his becoming active or dynamic during trial so that criminal justice being the end could be achieved. Criminal trial should not turn out to be a bout or combat between two

rival sides with the Judge performing the role only of a spectator or even an umpire to pronounce finally who won the race. A Judge is expected to actively participate in the trial, elicit necessary materials from witnesses in the appropriate context which he feels necessary for reaching the correct conclusion. There is nothing which inhibits his power to put questions to the witnesses, either during chief examination or cross-examination or even during re-examination to elicit truth. The corollary of it is that if a Judge felt that a witness has committed an error or a slip it is the duty of the Judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. Criminal justice is not to be founded on erroneous answers spelled out by witnesses during evidence-collecting process. It is a useful exercise for trial Judge to remain active and alert so that errors can be minimised.

13. *In this context it is apposite to quote the observations of Chinnappa Reddy, J. in Ram Chander v. State of Haryana [(1981) 3 SCC 191:*

“2. The adversary system of trial being what it is, there is an unfortunate tendency for a Judge presiding over a trial to assume the role of a referee or an umpire and to allow the trial to develop into a contest between the prosecution and the defence with the inevitable distortions flowing from combative and competitive elements entering the trial procedure. If a criminal court is to be an effective instrument in dispensing justice, the presiding Judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth. (emphasis in original)”

26] In view of this, it is now high time for all the stakeholders of the criminal justice system to act consistent with

this observation and expectation of the higher Courts. It is the collective duty and responsibility to ensure that the criminal justice system is not failed on account of such a careless and casual approach. In the facts and circumstances, I conclude that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. The accused deserves to be acquitted. Hence, the following order:

ORDER

- i] The Criminal Appeal is **allowed**.
- ii] The judgment and order of conviction and sentence passed against the appellant by the learned Extra Joint Additional Sessions Judge, Nagpur, dated 30.08.2021, in Special Child Protection Case No.06/2019, is quashed and set aside.
- iii] The appellant/accused – **Aakash S/o. Bankat Yedani** is acquitted of the offences punishable under Sections 376(2)(3) and 506 of the Indian Penal Code, 1860 and under Section 6 of the Protection of Children from Sexual Offences Act, 2012.
- iv] The appellant/accused **Aakash S/o. Bankat Yedani** is in jail. He be released forthwith, if not required in any other

case/crime.

v] The High Court Legal Services Sub-Committee, Nagpur, shall pay the fees to the learned advocate appointed for respondent No.2, as per Rules.

vi] The Criminal Appeal stands disposed of, accordingly.

(G. A. SANAP, J.)

Vijay