



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPEAL No. 730/2018**

Armanand s/o Radhelal Meshram, Aged about 21 Years,  
Occ. Nil, R/o Bhadanga, Tah. Goregaon, District Gondia,  
C-9987, Presently at Central Prison, Nagpur.

**APPELLANT**

**.....VERSUS.....**

1. State of Maharashtra, Through Police Station  
Goregaon, District – Gondia.
2. X Y Z (Victim in Crime No.63/2015, dated 03.06.2015  
registered at Police Station Goregaon, Dist. Gondia.

**RESPONDENTS**

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Shri P.V. Navlani, counsel (Appointed) for the appellant.  
Shri S.S. Doifode, Additional Public Prosecutor for the respondent no.1.

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**CORAM : NITIN W. SAMBRE AND VALMIKI SA MENEZES, JJ.**

**DATE ON WHICH ARGUMENTS WERE HEARD : MARCH 07, 2024.**

**DATE ON WHICH JUDGMENT IS PRONOUNCED : MAY 08, 2024.**

**JUDGMENT (PER : NITIN W. SAMBRE, J.)**

This appeal against conviction is preferred under Section 374 of the Code of Criminal Procedure, 1973 questioning the legality and sustainability of the judgment delivered by the Additional Sessions Judge, Gondia in Special (POCSO) Case No. 59 of 2015 decided on February 28, 2018.

2. *Vide* the aforesaid judgment, the appellant came to be convicted for an offence punishable under Section 376(2)(n) of the Indian Penal Code and he was sentenced to suffer rigorous imprisonment for life, viz. imprisonment for remainder of his natural life and to pay fine of Rs.10,000/-, in default to suffer rigorous imprisonment for one month.

The appellant is also convicted for an offence under Section 3 which is punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and was sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.10,000/-, in default to suffer rigorous imprisonment for one month. The appellant is also convicted for the offence punishable under Section 506 of the Indian Penal Code, 1860 and he was sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.5,000/-, in default to suffer rigorous imprisonment for one month. The appellant is also convicted for the offence punishable under Section 341 of the Indian Penal Code, 1860 and he was sentenced to suffer simple imprisonment for one month and to pay fine of Rs.500/-, in default to suffer simple imprisonment for one month. The trial Court has directed the sentences to run concurrently.

3. The prosecution case against the appellant is as under :-

On July 2, 2015, at around 10 am, the victim started to walk from village Bhadanga to Goregaon to attend her junior college. She started her return walk at about 5 pm on the same day after her junior college was over. When she reached the house of one Masterji, the appellant caught hold of her hand while he was on bicycle and dragged her in the adjoining field and ravished her by tying her mouth with a stole. The appellant was said to have committed rape twice at an interval of half an hour.

4. Thereafter the appellant arranged the victim to be dropped at her home the next day by 1.00 a.m. The victim after narrating the incident to her parents visited the police station and complaint Exhibit 37 was reduced in writing by LPHC Sudha Ganvir. Accordingly, an offence came to be registered under Section 376(2)(n), 506, 341 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012. Since the appellant pleaded not guilty *vide* Exhibit 6, the charge came to be framed against him on April 20, 2016.

5. API Bharat Karhade, who is examined at Exhibit 50, registered the First Information Report. In his evidence, he has stated that the report was lodged by the victim thereby narrating the exact incident and also about the threats given by the appellant of dire consequences of death in case, if the incident is divulged. He has specifically stated that LPHC Sudha Ganvir had reduced the report Exhibit 37 into writing and he has reduced the First Information Report Exhibit 51 into writing. Based on the above, the investigation was set in motion and after the appellant was apprehended, he came to be charge-sheeted. In support of the case of the prosecution, the prosecution has examined the following witnesses :-

- |      |                                                                                                                      |
|------|----------------------------------------------------------------------------------------------------------------------|
| PW-1 | Balkrishna s/o Chhotelal Damahe, <i>vide</i> Exhibit 15, father of victim girl.                                      |
| PW-2 | Ramesh s/o Nanuji Gautam, <i>vide</i> Exhibit 17, panch witness on spot and seizure panchanama of clothes of victim. |

- PW-3 Arun s/o Abhiman Dhande, *vide* Exhibit 20, panch witness of seizure panchanama of clothes of victim.
- PW-4 Maniram s/o Mansaram Raut, *vide* Exhibit 25, panch witness on seizure panchanama of bicycle.
- PW-5 Ashok s/o Daulat Pilhare, *vide* Exhibit 28, panch witness of seizure panchanama of sealed samples and seizure panchanama of shirt.
- PW6 Vicky s/o Jagan Shahare, *vide* Exhibit 32, panch witness, who had seen victim girl with appellant.
- PW7 Sudha w/o Pradip Ganvir, *vide* Exhibit 36, LPHC who reduced into writing report of victim.
- PW-8 Rajendra s/o Antaram Parshuramkar, *vide* Exhibit 39, NPC who deposited preserved and seized muddemal to C.A. Office, Nagpur.
- PW-9 Dr.Vijay s/o Motisingh Mali, *vide* Exhibit 45, Medical Officer who examined the victim girl.
- PW-10 Bharat s/o Pandharinath Karhade, *vide* Exhibit 50, API who registered the FIR and arrested the appellant.
- PW-11 Dr.Purushottam s/o Kashiram Patle, *vide* Exhibit 54, Medical Officer who examined the appellant.
- PW-12 Kantikumar s/o Surajlal Shendurkar, *vide* Exhibit 63, Rural Development Officer who proved the birth and death entry of the victim.
- PW-13 Ravindra s/o Pitambar Shinde, *vide* Exhibit 66, Investigating Officer.
- PW-14 Dr.Durgaprasad s/o Baliram patle, *vide* Exhibit 77, Medical Officer who examined the victim.

6. In addition to the oral evidence, the prosecution has also relied on the following documentary evidence.

| Sr.No. | Particulars                                                                                 | Exhibit No. |
|--------|---------------------------------------------------------------------------------------------|-------------|
| 1      | Seizure panchnama of simple soil and pair of chappal of appellant and school bag of victim. | 18          |
| 2      | Spot panchnama.                                                                             | 19          |

|    |                                                                               |                        |
|----|-------------------------------------------------------------------------------|------------------------|
| 3  | Seizure panchnamas of clothes and samples of victim.                          | 21 and 22              |
| 4  | Confessional statement of appellant.                                          | 26                     |
| 5  | Seizure panchnama of bicycle.                                                 | 27                     |
| 6  | Seizure panchnamas of sealed samples and shirt of appellant.                  | 29 and 30              |
| 7  | Report of victim.                                                             | 37                     |
| 8  | Invoice challans.                                                             | 40 and 41              |
| 9  | Returned report.                                                              | 42                     |
| 10 | Duty pass of NPC Parshuramkar.                                                | 43                     |
| 11 | Requisition letter.                                                           | 46                     |
| 12 | Injury report of victim.                                                      | 47                     |
| 13 | OPD issued by Dr.Vijay Mali to victim.                                        | 48                     |
| 14 | Form No.2                                                                     | 49                     |
| 15 | First Information Report.                                                     | 51                     |
| 16 | Arrest panchnama of appellant.                                                | 52                     |
| 17 | Requisition letter.                                                           | 55                     |
| 18 | Medico-legal certificate of appellant.                                        | 56                     |
| 19 | Letter issued by I.O. to Dr.Patle.                                            | 57                     |
| 20 | Dr.Patle issued report of appellant.                                          | 58                     |
| 21 | Form-B.                                                                       | 59                     |
| 22 | Attested copy of birth entry of victim.                                       | 64                     |
| 23 | Birth certificate of victim.                                                  | 65                     |
| 24 | Letters issued by PI Shinde to BGW Gen.Hospital Gondia & 2 Government Panchas | 67 and 68              |
| 25 | C.A. Form                                                                     | 69                     |
| 26 | Letters issued by PI Shinde to CJM Court, Gram Panchayat and Tahsildar.       | 70 and 72              |
| 27 | Statement under Section 164 of Cr.P.C.                                        | 80                     |
| 28 | Reports of Chemical Analyzer.                                                 | 86, 89, 90, 91 and 92. |

|    |                                                                                                     |    |
|----|-----------------------------------------------------------------------------------------------------|----|
| 29 | Report about death of victim alongwith Morgue Khabari, Death certificate and post-mortem of victim. | 81 |
|----|-----------------------------------------------------------------------------------------------------|----|

7. The trial Court after appreciating the oral and documentary evidence recorded a finding that the prosecution has proved that on July 02, 2015 the appellant raped the minor girl against her will and committed an offence punishable under Sections 376(2)(n), 506 and 341 of the Indian Penal Code and Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

8. Shri P.V. Navlani, learned counsel for the appellant would urge that the case of the prosecution has been entirely based on the circumstantial evidence as the victim girl has not testified herself in support of the prosecution case in view of her death. According to him, if the findings recorded by the trial Court are tested as against the analysis of evidence on record, it has to be inferred that the trial Court has committed an error in appreciating the evidence and has illegally convicted the appellant. According to him, the prosecution has failed to prove its case beyond reasonable doubt.

As against above, the learned Additional Public Prosecutor would support the prosecution case and submits that the prosecution has proved the case beyond reasonable doubt.

9. We have appreciated the rival claims in the backdrop of the oral evidence of the witnesses, the documentary evidence and also the finding recorded by the trial Court. PW-10 Bharat Karhade, Assistant Police Inspector has specifically proved the complaint and the First Information Report at Exhibits 37 and 51. He has also proved the arrest panchnama – Exhibit 52 and nothing incriminating could be noticed from his evidence so as to infer that the defence case can be said to be supported.

10. PW7-Sudha Ganvir, LPHC has specifically stated in her evidence that the victim lodged the complaint about the incident of July 02, 2015 on July 03, 2015 at 3 pm and stated that while she was returning from the junior college at about 5 pm, the appellant came from behind and dragged her in a field. Though she tried to rescue herself, her stole was used by the appellant to tie her mouth and then she was ravished twice at an interval of thirty minutes. It is specifically stated to this witness by the victim that after the incident, her clothes were smeared with mud and the appellant thereafter took victim to the house of PW-6 Vicky. The victim then narrated to the witness about she being provided food and clothes at the house of PW-6 Vicky and she was dropped on a motorcycle by a third person at around 1.00 am on July 03, 2015. The victim alongwith her parents went to the police station so as to lodge the complaint which was reduced into writing and the same is at

Exhibit 37. Exhibit 37 is said to be also signed by API Bharat Karhade who in turn registered the First Information Report. But for suggestion of giving false evidence in cross-examination, the story of the prosecution was unable to be demolished by the defence.

11. PW-6 Vicky, who is examined at Exhibit 32 has specifically stated in his examination-in-chief that the appellant was previously working with him and he also knows the victim girl. He has stated that on July 02, 2015 at about 10 pm, appellant came to his pan kiosk which he was running from home and noticed that the clothes of the victim were stained with mud and she had an injury on cheek. He has specifically stated that the victim was wearing a school uniform, i.e. white Salwar and blue Pajama. At the request of the appellant, he served meal to the victim at which time he has stated that the health of the victim was not in good condition. In response to the query of the said witness about cause of injury, the appellant had stated that they both fell from the bicycle. At the request of the appellant, the said witness provided clothes to the victim.

In the cross-examination, the defence could not demolish the story of the prosecution.

12. PW-1 Balkrishna, father of the victim, was examined at Exhibit 15 who in categorical terms stated that his wife, victim and his son are residing together with him. He has stated that the victim girl was of 17

years and he has specifically narrated about the incident as has been narrated by the victim to PW-7 Sudha Ganvir who had recorded her statement. Though the said witness was subjected to cross-examination, however, what has been stated by him in examination-in-chief was unable to be demolished in cross.

13. PW-2 Ramesh, who was examined at Exhibit 17, was the panch witness to the spot of incident. He has proved spot panchnama-Exhibit 19 so also the spot reflected in photograph Article A. He has also proved Exhibit 18-seizure panchnama of chappal of the appellant, a school bag of the victim and sample soil from the place of the incident. Similar is the evidence of PW-3 Arun who was examined at Exhibit 20. He has proved Exhibit 21 and Exhibit 22-seizure panchnamas. PW-5 Ashok, who was examined at Exhibit 28, was cited as a witness to the sealed samples. He has proved Exhibit 29-seizure panchnama. PW-6 Vicky in toto has supported the case of the prosecution which is already discussed hereinabove. Similarly PW-7 LPHC Sudha has also supported the case of the prosecution in entirety. PW-8 NPC Rajendra who was examined at Exhibit 39 has proved the invoice challans at Exhibits 40 and 41 and returned report at Exhibit 42 of the samples deposited by him in eight parcels and ten parcels respectively. The defence was unable to demolish the theory put by the said witnesses.

14. So far as the medical evidence is concerned, PW-9 Dr.Vijay, who was examined at Exhibit 45, deposed that at the relevant time he was having qualification of M.B.B.S. and he was in medical practice since ten years, serving at the Medical Hospital at BGW General Hospital, Gondia. On July 03, 2015, pursuant to the requisition letter given by LPC Bopche, Buckle No.704 he had examined the victim. In the history, after obtaining information from the victim, he has specifically noted about the incident of rape by the appellant. He has stated that the victim had suffered following injuries :-

- (i) abrasion over her left cheek and mandible region.
- (ii) swelling over her left cheek in size 1X1 cm, regular marking.

He has also stated about the age of the injuries. He has deposed that he along with Dr.Durgaprasad Patle had examined the victim. He has deposed that Column Nos.(i) to (v), (ix) and (x) of the injury report were authored by him, whereas Column Nos.(vi) and (vii) were authored by Dr.Patle. He has proved the injury report at Exhibit 47 by identifying his own signature and signature of Dr. Patle. The OPD card dated July 03, 2015 was also proved by him. He has stated that he had handed over the collected samples of victim's vaginal swab, blood plane, blood EDTA, pubic hair and hand nails to LPC Bopche in a sealed condition. He has also identified his signature on Form No.2. In cross-examination, the

suggestion given that he was deposing false was denied by him. He has specifically stated that he has examined the victim and has found abrasion and swelling over her left cheek and mandible region.

15. PW11-Dr.Purushottam Patle who was examined at Exhibit 54 has identified the requisition letter-Exhibit 55 brought by NPC Sathwane, Buckle No.43. He had examined the appellant and issued medico-legal certificate in his handwriting at Exhibit 56. He has proved the contents of the same at Exhibit 57. The said witness has specifically mentioned in the certificate that it cannot be said that the appellant was incapable of doing the intercourse. He has noticed the abrasion over the glans, two day old approximately, 3 ml X 2 ml. Two abrasion on both keens, one on each side. He opined that it cannot be commented whether the appellant had done forcible sexual intercourse with the victim. He has identified his signature and seal over the medical report – Exhibit 58. But for suggestion of deposing falsely, the defence could not extract anything from the said witness.

16. PW-12 Kantikumar, Rural Development Officer who was examined at Exhibit 63 has proved the entry of birth of victim Exhibit 64 and also placed on record the attested copy after verifying the same from the original register. The date of birth of the victim girl was May 18,

1998. The said certificate is at Exhibit 65 which evidence was also not demolished by the appellant in defence. PW-13 Ravindra, Investigating Officer has specifically deposed about registration of the offence and that he was in-charge Police Inspector on the date of the incident. He has proved the contents of letter – Exhibit 67 issued to the hospital for sending the victim for examination. He has specifically stated about preserving the sample of victim brought by LPHC and drawing of seizure panchnama in presence of panchas. He has also proved seizure panchnama - Exhibit 21. Similarly, he has proved Exhibit 22 – seizure of clothes of the victim, spot panchnama – Exhibit 19, seizure of sandal of appellant, hair band and school bag of victim and simple soil – Exhibit 18. He has proved arrest panchnama – Exhibit 52 drawn by API Karhade under his instructions. Seizure of clothes of appellant was drawn *vide* Exhibit 30. He had also seized preserved samples of appellant in presence of panchas *vide* Exhibit 57. He has identified his signature on the spot panchnama and thereafter sending all muddemal for chemical analysis through NPC Parshuramkar alongwith duty pass. He has proved his signature on Chemical Analysis Form Exhibit 69. Further, he recorded the confessional statement of appellant in presence of two panchas which led to discovery of bicycle under Section 27 of the Indian Evidence Act. Memorandum – Exhibit 26, seizure panchnama – Exhibit 27, statement of

victim and witness Vicky Shahare under Section 164 of the Code of Criminal Procedure were recorded and the letter to that effect was duly proved and identified at Exhibit 70. The birth certificate of the victim obtained from the Gram Panchayat with covering letter Exhibit 71 and sketch map drawn through the Office of Tahsildar in response to letter - Exhibit 72 was duly proved. In cross-examination, the suggestion of false investigation and recording of false panchnamas were denied by him. He has specifically denied the suggestion of non-seizure of samples and non-seizure of clothes of victim. He has specifically identified the seized property at Article-A paragon sandals of appellant; Article-B Kurta of victim smeared with mud; Article-C navy blue coloured Pajama of victim smeared with mud; Article-D blue coloured underwear of victim; Article-E simple soil seized from the spot; Article-F jeans pant of appellant smeared with mud; Article-G saffron coloured shirt of appellant having design; and Article-H sky blue coloured underwear of appellant. He has specifically stated that seizure of all articles bear his signatures and the seizure panchnamas of the same were drawn before the panchas. He has also stated that the bicycle seized from the appellant under discovery was kept in malkhana which fact is not doubted by the defence.

17. PW-14 Dr.Durgaprasad Patle who had examined the victim, has specifically stated that he was working as a Medical Officer at BGW General

Hospital, Gondia. He had carried out gynecological examination of victim and he has noted a fresh tear at hymen at 7'O clock. He has not noticed any fresh bleeding at the time of examination and there was absence of injuries on external genitals. He has stated about collection of vaginal swab and it being handed over to LPC Bopche, Buckle No.704. He has specifically stated that what has been stated in Column vi, viii and sub-Clause (b) of column 6 of X bears his handwriting. He has specifically stated that rest of the form was filled in by Dr.Mali and identifies his signature. The suggestion of giving false report was denied by him in the cross-examination.

18. We have discussed the aforesaid evidence which was brought on record. One important issue which this Court has noticed is that there is hardly any cross-examination of the witnesses by the defence but for only suggestions of false implication. The defence of the appellant was that of complete denial.

19. If we consider the evidence of PW-1 Balkrishna, father of victim, who was examined at Exhibit 15, PW-6 Vicky Shahare, who had first seen the appellant after commission of the offence, was examined at Exhibit 32, PW-7 Sudha Ganvir, LPHC, who had recorded the complaint of victim, PW-10 Bharat Karhade, who was examined at Exhibit 50, was the API who had carried out investigation after the same was handed

over to him by PW-13 Ravindra, it is quite apparent that the prosecution has beyond reasonable doubt established its case. It has been specifically established that on July 02, 2015 at around 5 pm, the appellant dragged the victim to the agricultural field and ravished her twice at an interval of thirty minutes. He then threatened the victim of dire consequences if she discloses the incident to anybody and also promised her to marry. It has been established that PW-6 Vicky had provided not only food to the victim but also clothes and thereafter the victim was dropped at her home in the intervening night of July 02, 2015 and July 03, 2015. The appellant had introduced victim to the said witness as his wife. The victim alongwith PW-1 had been to the police station where her complaint was reduced into writing by PW-7 and PW-13 Ravindra had directed registration of the offence and arrest of the appellant. Based on medical examination of the appellant and victim occurrence of the incident was sufficiently established as the evidence of PW-14 Dr.Durgaprasad specifically establishes that the victim suffered recent hymen tear and she had fresh injuries on her body.

20. The victim belongs to the rural part and her father appears to be a rustic person. There are hardly any suggestions given to the said witness for demolishing the case of the prosecution. The statement of victim under Section 164(5) of the Code of Criminal Procedure, 1973

was recorded by the Magistrate on October 06, 2016 *vide* Exhibit 80. The victim had expired as she committed suicide. The morgue report Exhibit 81 and P.M. report dated October 04, 2016 were specifically proved. Her statement Exhibit 18 having regard to Section 32(1) of the Evidence Act was taken into consideration. Such statement of the victim though cannot be termed as a circumstantial evidence, however the same can be considered for corroboration. It is a settled law that the Magistrate who has recorded the statement under Section 164 of the Code of Criminal Procedure, 1973 need not be examined. In support of the aforesaid observation, support can be drawn from the judgment of the Apex Court in *Madi Ganga Versus State of Orissa* [AIR 1981 SC 1165]. The injury suffered by the victim sufficiently corroborates the offence being committed by the appellant. The appellant owes explanation for having suffered injuries and failing to explain the same either by adducing evidence in his defence or otherwise. The Apex Court in paragraph 21 of the judgment in *Trimukh Maroti Kirkan Versus State of Maharashtra* [(2006) 10 SCC 681] has laid down the important principle of law. Paragraph 21 of the aforesaid judgment reads as under :-

“21. In a case based on circumstantial evidence where no eyewitness account is available, there is another principle of law which must be kept in mind. The principle is that when an incriminating circumstance is put to the accused and the said accused either offers no explanation or offers an explanation

*which is found to be untrue, then the same becomes an additional link in the chain of circumstances to make it complete. This view has been taken in a catena of decisions of this Court. [See State of T.N. v. Rajendran (SCC para 6); State of U.P. v. Dr.Ravindra Prakash Mittal (SCC para 39 : AIR para 40); State of Maharashtra v. Suresh (SCC para 27); Ganesh Lal v. State of Rajasthan (SCC para 15) and Gulab Chand v. State of M.P. (SCC para 4)].”*

21. It would be useful to refer to the observations of the Apex Court in *State of Maharashtra Versus Suresh [(2000) 1 SCC 471]*, and more particularly paragraph 27 of the said judgment. The Apex Court in the said paragraph has observed as under :-

*“27. .... We have pointed out earlier the injuries which the doctor had noted on the person of the accused when he was examined on 25-12-1995. The significant impact of the said incriminating circumstance is that the accused could not give any explanation whatsoever for those injuries and therefore he had chosen to say that he did not sustain any injury at all. We have no reason to disbelieve the testimony of PW22 Dr.Nand Kumar. A false answer offered by the accused when his attention was drawn to the aforesaid circumstance renders that circumstance capable of inculping him. In a situation like this such a false answer can also be counted as providing “a missing link” for completing the chain.”*

In the case in hand also, while recording the statement under Section 313 of Code of Criminal Procedure, 1973 at Question No.99, when the appellant was asked about his injuries, he has failed to provide any explanation and has answered the same ‘it is false’.

22. Furthermore, this Court at Aurangabad Bench in *State of Maharashtra & Others Versus Santosh Vishnu Lonkar & Others* [2020 (1) Bom.C.R. (Cri.) 199] in paragraph 56 has observed that when the prosecution case rests on circumstantial evidence and various links in the case are established by the prosecution and the prosecution has established the proximity with relation to time and situation, it becomes the duty of the accused to offer reasonable explanation. It is further observed that the explanation of the accused needs to be such that it creates the probability consisting with his innocence and if no explanation at all is offered by the accused, absence of explanation can make available adverse inference against the accused as provided in Section 114 of the Evidence Act.

23. As such, there is enough material to infer that the victim was last seen with appellant immediately after commission of offence by the appellant and the said fact is duly established by PW-6 in his evidence. The victim narrated about the incident after being dropped by the person of the appellant at her place. She alongwith PW-1, her father, had gone to the police station and PW-7 Sudha Ganvir reduced the report in writing, whereas PW-10 Bharat Karhade registered the First Information Report-Exhibit 51. The victim was medically examined by PW-9 Dr.Vijay and PW-14 Dr.Durgaprasad and the injuries suffered by the victim were

duly proved. The statement of the victim recorded under Section 164(5) of the Code of Criminal Procedure, 1973 and the victim having died, the effect of the same under Section 32(1) of the Evidence Act is also proved. The seizure of the clothes of victim and appellant which were smeared with mud, the evidence of PW-11 Dr.Patle of proving the potency of the appellant to commit sexual offence has been rightly considered by the trial Court to convict the appellant. Therefore, the five golden principles as enunciated in the landmark judgment of the Apex Court in *Sharad Birdhichand Sarda Versus State of Maharashtra* [(1984) 4 SCC 116] have been satisfied in the case in hand.

24. In our view, the evidence available on record pinpoints the involvement of the appellant in the heinous offence of aggravated penetrative sexual assault on the victim beyond reasonable doubt. That being so, the conviction of the appellant cannot be faulted with. The criminal appeal as such lacks merits and the same stands dismissed.

(VALMIKI SA MENEZES, J.)

(NITIN W. SAMBRE, J.)