



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 418 OF 2023

XYZ

.... **Appellant**

Versus

1. The State of Maharashtra
Through the Police Station Officer,
Police Station, Mukundwadi,
District Aurangabad
2. Rameshwar s/o Vitthal Rathod,
Age: 26 years, Occu.: Medical Practitioner (Doctor),
R/o.: Village Pathrud, Taluka and District Jalna

.... **Respondents**
(No. 1 Prosecution and
No. 2 Ori. Accused)

...
Advocate for the Appellant : Senior Advocate Mr. R. S. Deshmukh
i/b Mr. Devang R. Deshmukh
APP for Respondent No. 1-State : Mr. S. R. Yadav Lonikar
...

**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

Dated : July 28, 2025

ORAL JUDGMENT :-

1. By this appel filed under Section 372 of Code of Criminal Procedure, the victim challenges the judgment and order dated 21.02.2023 of acquittal of respondent No. 2 in Special (POCSO) Case No. 344 of 2021, passed by the learned Special

(POCSO) Judge, Aurangabad. Respondent No. 2 / accused charged under Section 376(2)(n), 506 and 201 of Indian Penal Code, Section 4 and 12 of the Protection of Children from Sexual Offences Act, and under Section 66-E of the Information Technology Act.

2. In support of its case, prosecution examined victim as PW-1 and Investigating Officer as PW-2. On appreciation of evidence, the Trial Court acquitted the accused. Hence, the present appeal.

3. Heard learned Senior Advocate for the appellant and learned APP for the State. Perused the documents placed on record including the notes of evidence.

4. Perusal of record shows that victim has admitted in her evidence that she cannot tell day, date and month on which accused had been to their home for the first time when they were residing at Hanuman Nagar. She also could not tell the subsequent days, dates and months when he came to her home. She could not tell the days, dates or months on which accused kept physical relations with her. She has admitted that in the lodge where they stayed at Ahemadnagar was located in market area and there were

so many staff members in the lodge but she did not complain to anybody. When she had been to Ahemadnagar, at that time, her husband was at village Patrud. Till her arrival from Ahemadnagar, noone searched for her and no missing report was lodged. During her stay at Ahemadnagar and while returning from there, she had conversation with her relatives on the mobile handset of Sindhubai which was with her. She did not complain to anybody about the alleged act of rape committed by the accused.

5. It is clear from the evidence of the victim that she has alleged five instances of committing rape. Her evidence about these five instances is vague. Not even at a single time, she has complained to anybody. The FIR is lodged after four months delay from the last incident of alleged rape. Recitals in the FIR connote consensual sexual relations between the victim and the accused. Record shows that when victim's brother's wife told her to lodge the complaint with police, on the next day, accused made phone call to her brother's wife and stated not to lodge the compliant and he will marry the victim. They will run away otherwise he will lose his service. Thereafter, there was a meeting at Jalna of the relatives, accused came there and picked up quarrel with them. So, the victim alongwith her father, brother and brother's wife, went to

the Police Station and lodged the complaint after due deliberation.

6. It is the prosecution case that the accused had recorded the video of the alleged sexual act with the victim. However, during investigation, nothing was seized from the accused.

7. The Trial Court has properly appreciated the evidence and has assigned cogent reasons while acquitting the accused. No case is made out by the appellant to interfere in the impugned judgment and order of acquittal.

8. The appeal, being devoid of merit, is dismissed.

(SANDIPKUMAR C. MORE, J.) (NITIN B. SURYAWANSHI, J.)

Omkar Joshi