



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 472 OF 2025

X.Y.Z.

...Appellant

Versus

1. The State of Maharashtra

2. Tayabkhan Maulakhan Pathan,
Age: 27 years, Occ: Private Service,
R/o Bhosi, Tq. Bhokar, Dist. Nanded

...Respondents

- Mr. P P Shahane, Advocate for the Appellant
- Mr. S. A. Gaikwad, APP for the Respondent/State
- Mr. A. P. Deshmukh, Advocate for the Respondent No. 2

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 01, 2025
PRONOUNCED ON : DECEMBER 02, 2025

JUDGMENT :

1. By consent of both sides, appeal is taken up for decision at the admission stage itself.

2. Original complainant takes exception to judgment and order dated 04.01.2025 passed by learned Additional Sessions Judge and Special Judge, Bhokar in Special Case No 09/2021 by which present respondent no. 2/original accused stood acquitted from charge under Section 354 & 354(D) of the Indian Penal Code, Section 3(1)(v)(w) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act and Sections 8 and 12 of the

Protection of Children from Sexual Offences Act.

3. In nutshell, prosecution was launched against present respondent vide above case on the charges that PW1 victim/a minor, while was proceedings to hand over lunch box to her parents while they were working in the field in the afternoon of 26.11.2020, at that time present respondent no. 2 after following victim allegedly intercepted her way, caught her hand expressed his liking towards her and wanted to talk to her. She gave jerk and managed to go ahead. She reported her parents and after two days, FIR came to be lodged. On the strength of the same, PW4 registered crime, investigated it and charge-sheeted accused before learned Additional Sessions Judge, Bhokar who tried respondent no. 2 for above charges vide Special Case No. 09/2021 and on appreciating the evidence, recorded a finding that case of the prosecution is not proved beyond reasonable doubt and thereby acquitted the accused.

Dissatisfied by the above, original complainant has invoked provisions under Section 372 of Code of Criminal Procedure.

4. Learned counsel for complainant would submit that at the time of incident, victim was minor and studying in 7th standard. She also belong to scheduled caste. Accused at the time of incident was 27 years of age. That, while complaint was taking lunch box of her parents to the field, at that time on the way accused initially followed her and then obstructed her

way and informed that he liked her and wanted to talk her and even tried to catch her hand. That, she managed to free herself from his clutched and she went to the field and reported her parents. According to learned counsel entire episode has been narrated to parents. Her evidence to that extent is not shattered nor rendered doubtful. That, victim as belong to scheduled caste, provisions of atrocities act along with offence of outraging modesty were made out and not only there is evidence of victim but also her mother, head master and investigating officer. Therefore, there being overwhelming evidence as charges were proved, learned counsel submits that conviction ought to have been recorded but it did not happen so.

5. Learned counsel for appellant criticized the judgment on the ground that suspicion is raised for delayed report. According to him, in cases of such nature, delay is insignificant and he seek reliance on judgments of Hon'ble Apex Court in the cases of *State of Himachal Pradesh vs. Prem Singh*, reported in AIR 2009 SC 1010 and *Vidyadharan vs. State of Kerala*, AIR 2004 SC 536 and two judgments of High Court of Meghalaya and Himachal Pradesh.

6. He further submitted that second ground on which there is acquittal is alleged grudge between one Siddharth and father of complainant but according to learned counsel, said Siddharth merely happens to be friend of main accused and there was no grudge with the

accused to falsely implicate him and, therefore, findings to the above extent are found fault at.

7. Lastly, he submitted that learned trial Court also surprisingly acquitted the accused on the ground that victim did not report her uncle who was also working in his field while she was proceeding to her parents and for all above reasons, learned counsel criticized the impugned judgment to be illegal and erroneous and to be borne out of evidence.

8. In answer to above, learned counsel for respondent would support the impugned judgment on the ground that there is no independent witness. Important witness like uncle is not reported or examined. There is delay in report rendering the version of complainant doubtful, more particularly, when mother had admitted that there was grudge with father.

9. Appreciated the evidence on record. PW1 is the victim and her evidence is at exhibit 23. She stated that on 26.11.2020 she was 13 years of age and she belongs to scheduled caste. She reported that while she was taking tiffin for her parents, when she reached vicinity of Bhosi Bus stand, she met accused who was on motorcycle. That, while she was on the way, he allegedly caught her hand but she managed to free herself and she tried to talk to him and also said that he liked her and, therefore, when she told that she would inform her father and went ahead, he still followed her. Then she

stated that, at that time she met her uncle who was working in the adjoining field and seeing him, accused went away and thereafter reaching field, she informed her parents and she deposed about joining them to lodged report exhibit 25.

While under cross, suggestions are given that at the time of incident there was Covid 19 and she admitted that at such time people were wearing masks. Suggestion is given that, there was quarrel between Siddharth Sarpate and her father and it is tried to suggested that they too are friend but she expressed her ignorance regarding them. She is questioned whether at the time of incident of quarrel between her father and Siddharth accused was present, she answered that she does not remember. Omission is brought in paragraph 6 that accused was following her. Rest is all denied.

10. PW2 is the panch to panchnama exhibit 32. PW3 is the independent witnesses but he has not supported prosecution. PW4 is the mother of PW1 and she stated that three years back around 12.00 noon her daughter came to the agriculture field and informed that accused followed her since bus stand and he caught her hand saying that he liked her and that, her daughter gave jerk over hand and came running. In paragraph 6 omission is brought about she reporting police in a statement that accused followed her daughter from bus stand, caught her hand, teased her and it

being reported to her by her daughter.

PW5 is the head master who placed on record exhibits 42 and 43 i.e. communication by police to issue school extract on the point of date of birth of victim and its extract respectively. PW 6 and 7 are the investigating officer.

11. Re-appreciated the evidence on record. There is no dispute or challenge that at the time of incident PW1 was minor. There is also no dispute that victim was belonging to scheduled caste. As regards to act of following, intercepting her way and catching her hand on 26.11.2020, she has deposed in her evidence. However, first information report is apparently after 2 days and not immediately in spite of she deposing in her evidence that after reaching field, she reported her parents and then came to bus stand and thereafter, directly went to police station. In her testimony, she has stated that near the spot where the incident took place, her maternal uncle was working but surprisingly neither she reported him nor he is examined to prove the incident. In fact, he was the best witness.

12. In the cross of complainant as well as her mother, suggestions are given that accused was a friend of one Siddharth Sarpate and while they were both in each others company, there was quarrel with complainant and there was grudge. Victim in her evidence has not denied but has expressed her ignorance but mother has admitted to the above extent and, therefore,

coupled with delayed report, animosity is also brought on record apart from not examining important witness like maternal uncle. As stated above, there is no prompt reporting.

13. Though learned counsel for complainant has placed reliance on several above referred rulings, there is no dispute that in cases of such nature, delay is insignificant. However, even testimony of informant should inspire confidence of the Court. Here, in her testimony at exhibit 23, she has clearly stated in paragraph 1 that after informing her parents, they all came to bus stand and all relatives went to police station and, therefore, complaint ought to have been registered on the same day i.e. on 26.11.2020 but it has not happened so. Therefore, here delay in FIR coupled with above reasons, give reasons to raise doubt about story of prosecution.

14. Though victim was belonging to scheduled caste, essential ingredients to attract 3(1)(v)(w) of the Atrocities Act are not substantiated and there is no corroboration to the testimony of victim.

Bearing in mind, the settled principle to be borne in mind while dealing with appeal against acquittal and that Appellate Court cannot substitute its view merely because it has different view, as trial Court has extended benefit of doubt, there is presumption of innocence and the same cannot be interfered with without justifiable reason on merit.

15. For above reasons, there being no merit in the appeal, I proceed to pass following order:

ORDER

Criminal Appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)

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