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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 668 OF 2005**

The State of Maharashtra V/s. Maruti Pundalik Vavekar Age 54 years, R/o. Samartha Society, Chendhare, Tal. Alibag, Dist. Raigad	 Appellant Respondent
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**WITH
INTERIM APPLICATION NO. 3945 OF 2024
IN
CRIMINAL APPEAL NO.668 OF 2005**

Maruti Pundalik Vavekar Age 54 years, R/o. Samartha Society, Chendhare, Tal. Alibag, Dist. Raigad V/s. The State of Maharashtra	 Applicant Respondent
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Ms. Supriya Kak, APP for the Appellant–State and for the Respondent in IA No.3945/2024.
Mr. Mahadeo A. Choudhari a/w. Mr. Ranveer Choudhari and
Ms. Teesha M. Choudhari for the Respondent and for the Applicant in IA No.3945/2024.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATED : 25th NOVEMBER, 2025

ORAL JUDGMENT (PER BHARATI DANGRE, J.)

. The Appeal raising a challenge to the impugned Judgment delivered by the Additional Sessions Judge, Raigad in Sessions Case No.15/2002, thereby acquitting the accused for the offences punishable

under Sections 342, 354, 376, 506 and 511 of the Indian Penal Code, came to be admitted upon the leave being granted.

Upon the paper book being received, we have taken the Appeal for final hearing.

2) Heard learned APP Ms. Supriya Kak for the Appellant and the learned Counsel Mr. Choudhari representing the Accused.

With their able assistance, we have perused the paper book placed before us which includes the evidence laid before the Court and also the judgment of acquittal.

3) The Accused, a school teacher in which the victim girl was studying in standard VI faced a charge of committing an offence punishable under Sections 376 read with 511 of Indian Penal Code as it was alleged that on 08/01/2001 at 17:00 hours, he attempted to commit rape on a minor girl studying in the school and he wrongfully confined her in the classroom of the school building and therefore committed an offence under Section 342 of IPC.

4) Upon the accused pleading not guilty, he was subjected to trial.

In support of the prosecution case, the victim girl as well as her mother and one of her friends, entered into the witness box who established the charge of Section 376 read with 511 of the Indian Penal Code and we have carefully scrutinized their deposition including the extensive cross-examination to which the victim was subjected.

As far as the victim girl (PW-2) is concerned, she categorically deposed that the Accused was her class teacher from IVth standard and at the relevant time, she was studying in VIth standard. Referring to the incident which is alleged to have occurred on 08/11/2001, she deposed that at around 5 o'clock, the Accused asked her to bring water and told her that when he ask her to do so, the other boys would go out to play but she should not go out. At 5 o'clock, all the students went for playing, but she stayed in the classroom. The Accused then closed the doors and windows of the room and asked her to lift her skirt and also to remove her undergarment.

According to PW-2, the Accused also removed his pant and also removed his undergarment and then embraced her.

PW-2 categorically deposed that being baffled by the incident, she kicked him, but he did not leave her and then she raised an alarm, and he released her and she sprung out of the room to the playground, crying, and on being inquired by her two friends, she disclosed about the incident.

5) PW-2 further deposed that after disclosing the happening of the day to her friends, she went home and on the next day she returned to the school and went to one Parshuram, to whom part of the incident was narrated and on returning home, she described the incident to her mother and Uncle who then informed the incident to Parshuram, who called the Sarpanch and Police Patil of the village.

On being subjected to cross-examination, PW-2 admit that the doors had no latches.

6) Giving the idea about the room in the school building where the incident is alleged to have taken place, she deposed that she was in the second room, which was on the left-hand side while facing the school. A categorical admission from her is to the effect that when the incident took place, all other students were playing on the playground, which is at the distance of 5 feet and if somebody talks outside, it can be heard from the classroom. Apart from that, she categorically admit that the school building is visible from the playground. However, there is a clear cut admission by her to the following effect : “ It did occur to me to raise alarm. I did not shout. I did not shout loudly.”

According to her, she did not ask the Accused as to what he was doing and she only kicked him once, on his leg with her foot and while narrating the sequence of events, she stated that “the accused embraced me for about two to three minutes after I kicked him. I opened the door and went outside by running. I started crying, when he embraced me.”

7) According to PW-2, she disclosed the incident to her two friends, one of whom is examined as PW-3 and she admit that she met twelve girls but she did not tell any of them about the incident. According to her, the school was immediately closed after she told about the incident to her friends.

On returning home, which was situated at the distance of 10 minutes walking from the school, with the presence of her parents in the house, she took meals and quietly went to sleep and did not disclose the incident to them.

On the next day, according to PW-2, she alongwith the friends decided to approach one Parshuram, who, according to her was the Member of School Committee and on the suggestion given by her friend, though she was not acquainted to him and this was with an intention that the Accused would be removed from the school, if the incident is reported. However, she categorically admit in her cross-examination that she did not disclose any fact to Parshuram and even her friend did not disclose anything to him that was disclosed by her.

8) We have carefully perused the evidence of PW-3, the friend of PW-2, to whom the incident was immediately disclosed. After admitting that she is studying in the same class as a victim, PW-3 deposed that, after the victim entered the classroom, the doors of the classroom were closed and she was at the playground. According to her, she came out of the room crying and when asked, she gave narration of the misconduct of the Accused by stating as below : “the accused had asked her to lift her skirt and remove her undergarment.”

PW-3 has spoken in sync with PW-2, when she disclosed that they went to Parshuram but she state that the visit was on the same day

when they told Parshuram that the Accused behaved indecently, and he held their hands and kept his hand on their back and thereafter they went home.

PW.3 admitted in the cross-examination that it was her idea to go to the house of Parshuram, so that he would transfer the accused and this idea was in her mind before the incident was disclosed by PW-2. Once again, she admit that the victim did not disclose any fact to Parshuram.

9) The version that surfaced before the learned Judge through the two witnesses i.e., the victim herself and her friend to whom, she had disclosed about the incident at the first instance, in no way corroborate each other.

PW-2 had stated that they visited Parshuram on the next day whereas, PW-3 state that on the same day, they went to Parshuram. Further, a conjoint reading of the deposition of the two witnesses clearly lead to an inference that neither of them disclosed to Parshuram about the incident that took place on 08/11/2001 and neither the victim nor the other friend disclosed the incident to him. Therefore, there is no reason as to why they had approached him and PW-2 had deposed that she had told him half of the incident but from reading of evidence of PW-3, it is evidently clear that they did not talk to him about this incident but, in general, complained to him about indecent behaviour of the accused.

10) Now, coming to the version of PW-1, mother of the victim, who

deposed that the incident had taken place on 08/11/2001, but she was made aware of the incident on 09/11/2001 by her daughter, when she came home at 06:00 p.m. crying and disclosed that the Accused had misbehaved with her. According to PW-1, her daughter disclosed that on 08/11/2001, the Accused told her to stay in the class at 05:30 p.m. and told her that after the students are gone out for playing, she would wait in the class and he asked her to bring water and then, he closed the door of the room and shut the window and directed her to lift up her skirt and also to remove her undergarment. The Accused did the same and embraced her but she kicked him and shouted loudly and when she was released, she came out of the class. PW-1 improved the version as narrated to her by the victim, by saying that she was threatened by the Accused that she should not disclose the matter to her parents and therefore, she did not disclose the incident to her.

PW-2, however, never speak of any such threat given to her by the Accused.

According to PW-1, the villagers were informed about the incident and a meeting took place and a complaint was lodged.

11) In the wake of the above evidence that had come on record before the trial Court, it is not necessary to refer to the evidence of Medical Officer, which is of no consequence because, despite the victim being subjected to medical examination, he did not find any signs which could

have supported the case of the prosecution.

12) PW-4 who was attached to Alibag Police Station has recorded the complaint (Exh.12) deposed that he had sent the victim for medical examination and drew the spot panchanama, and on recording the statement of the witnesses, arrested the Accused.

13) We also had an opportunity to go through the impugned Judgment and though we concur with the view expressed by the learned Sessions Judge that the prosecution has failed to prove its case beyond reasonable doubt, we deem it appropriate to ignore certain observations made therein, and specific, that the victim girl herself lifted her skirt, which according to us, is an unwarranted observation. However, the learned Judge has rightly taken cognizance of the contradictory versions surfacing on record and we also do not agree with his observation about improbability as we find that it was the duty of the prosecution to establish its case beyond reasonable doubt by placing on record cogent and reliable evidence.

The evidence of PW-2 and PW-3, however, do not corroborate with each other and the version given by PW-1 mother do not match with the evidence of PW-2. It leaves certain gaps and doubts and benefit of this must accrue in favour of the Accused and this is what the impugned Judgment has precisely done.

14) Finding no infirmity in the conclusions reached, based upon appreciation of the evidence of the three key witnesses, the learned Judge

has reached at the right conclusion and we see no reason to intervene.

15) The Appeal filed by the State is dismissed.

In view of dismissal of the Appeal, the Interim Application No.3945 of 2024 stands disposed of.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)