



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

CRIMINAL APPEAL NO. 691 OF 2024

Victim XYZ, Crime No. 121/2018 Police
Station Dabaki Road, Akola

...Appellant

// VERSUS //

1. State of Maharashtra through Police
Station Officer, Police Station Dabaki
Road, Akola
2. Sudhakar Mahadev Pande, Age adult,
Occ. Service,
R/o Vyala at present Behind New Prasad
Nagar, Akola

... Respondents

Mrs. Sonali Saware / Gadhave, Advocate for the appellant.
Ms. Mayuri Deshmukh, APP for the respondent no.1/State.
Ms. Poonam Pisurdi Advocate h/f Shri S.V.Sirpurkar, Advocate for the
respondent no.2.

**CORAM : NITIN B. SURYAWANSHI &
PRAVIN S. PATIL, JJ.**

DATED : 12th FEBRUARY, 2025.

ORAL JUDGMENT (PER : NITIN B. SURYAWANSHI, J.)

By this appeal filed under Section 372 of the Code of
Criminal Procedure, victim challenges the judgment and order dated 10th
May, 2023, passed by learned Additional Session Judge, Akola in Session

Case No. 80 of 2018, thereby acquitting respondent no.2 from the offence punishable under Sections 376(2)(f) and 506 of the Indian Penal Code.

2. Heard Mrs. Sonali Saware / Gadhawe, learned advocate for appellant, Ms. Mayuri Deshmukh, learned Additional Public Prosecutor for respondent/State and Ms. Poonam Pisurdi, learned advocate for respondent no.2.

3. With the assistance of learned advocate appearing for the parties, we have perused the documents placed on record and the impugned judgment and order.

4. Record indicates that major part of evidence of victim if proved to be contradictions by way of omission, victim's evidence in respect of rape is also inconsistent. There is no corroboration to her testimony. Trial Court has found her evidence unreliable. Medical evidence also does not support the prosecution case. Mobile phone of the accused/respondent no.2 did not contain of obscene pictures of victim, on the basis of which she was allegedly being blackmailed. There is no clear evidence of alleged threats given by accused to cause death of victim, at a

particular point of time as required under Section 506 of the Indian Penal Code. As such, evidence of prosecution witnesses including victim and her daughter is also lacking on material particulars of offences and therefore it cannot be relied upon. There is no legally acceptable evidence against accused brought on record to prove the charge against accused.

5. There is delay of more than five months in lodging First Information Report which creates serious doubt about the prosecution case. Defence of accused that there was dispute between family of the victim and accused over the issue of funding of Rs.1,50,000/- for installation of electricity fittings and other accessories on the rented premises of first floor and therefore accused is falsely involved in the present crime appears to be probable.

6. Trial Court has rightly observed that “uncorroborated evidence of victim which is marred by discrepancies and omissions on material aspect of the case, cannot be accepted to prove the accusation of rape against the accused. It is further emerging that the allegation of rape made by the victim does not find any support in the form of medical evidence and forensic evidence”.

7. Trial Court has properly appreciated the evidence and has rightly acquitted respondent no.2/accused by passing well reasoned order. No case is made out by the appellant to interfere in the impugned judgment and order of acquittal. Appeal being devoid of merit and is dismissed.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]