



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 225 OF 2025

Krishna Chandoji Sontakke,
Age-26 years, Occu-Education,
R/o. Talni, Tq. & Dist. Nanded

...APPELLANT
[Org. Accused]

VERSUS

State of Maharashtra
Through the Police Station Officer
Limgaon Police Station, Tq. & Dist. Nanded

...RESPONDENT

Mr. Suresh P. Salgar, Advocate for the appellant (appointed)
Ms. U. S. Bhosale, APP for the respondents/State
Ms. Manjushri Narwade, Advocate for the respondent No. 2
(appointed)

CORAM : RAJNISH R. VYAS, J.

DATE : 08th JANUARY, 2026

ORAL JUDGMENT :

1. A challenge in this appeal to the judgment of conviction by which the appellant/ accused was convicted for the commission of offence punishable under sections 377 and section 376 (2) (i) of the Indian Penal Code [for short 'the IPC'] and section 3 punishable under section 4 and section 7 punishable under section 8 of the Protection of Children from Sexual Offence, 2012 [for short 'the Act of 2012'].

2. The appellant was sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.2000/- in default

he was directed to suffer simple imprisonment for fifteen days for the offences punishable under sections 3 punishable under Section 4 of the Act of 2012. The appellant was directed to suffer rigorous imprisonment for a period of three years and to pay fine amount of Rs.2000/- in default to suffer simple imprisonment for fifteen days for the offences punishable under sections 377 of the IPC. He was also directed to suffer rigorous imprisonment for a period of three years and to pay fine amount of Rs.1000/- in default to suffer simple imprisonment for ten days for the commission of offence punishable under Sections 7 punishable under Section 8 of the Act of 2012. The sentences were ordered to run concurrently.

3. In brief, it is the case of the prosecution that the informant and victim so also accused were residing in the same locality and the house of the accused was adjacent to the house of the victim. The age of the victim at the time of setting the criminal law in motion was seven years and she was taking education in 2nd std.

4. On 26-11-2016 at about 10.00 am the informant left the victim and her another son in the school in the village and she went for labour work. At about 04.00 pm when she was in the agriculture field, her son so also PW-3 came and informed that victim was crying and something had happened to her. Mother of victim was examined as PW-1. She reached her house immediately, where she found victim

crying. On being enquired the victim told her that after coming to the home at about 01.00 pm when she was playing with her friend in the courtyard of the house, the accused took her to his house and slapped her and removed nicker, slept on her and committed physical unnatural sexual intercourse, due to which the victim sustained bleeding injuries.

8. PW-1 after noticing the injuries informed her husband telephonically and thereafter both of them took the victim to the hospital. In the hospital the police recorded her statement on 27-11-2016. The statement during the course of the trial was exhibited at Exh.12. This statement set criminal law in motion and consequently registration of the First Information Report against the accused person. The investigation of the crime was then conducted by PW-11 who arrested the accused and during the course of investigation seized the clothes of the accused, victim and also collected the blood samples and forwarded for chemical examination. After completion of the investigation he filed a charge-sheet.

6. The charge was framed against the appellant by the learned Additional Sessions Judge, Nanded in Special Case No. 47/2017 for the commission of offence punishable under Section 377, 376(2)(i) of the IPC and Section 4 & 8 of the Act of 2012.

7. At this juncture, it is necessary to mention here that when the offence in question was committed the appellant was juvenile in conflict with law and was produced before the Juvenile Justice Board. As per the procedure prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015 preliminary assessment was carried out and report to that effect was submitted on 07-12-2017 by the Juvenile Justice Board, Nanded and case was transferred for trial to the Sessions Court, Nanded.

8. Since the accused did not plead guilty the prosecution opened its case and in order to bring him to charge had examined 13 witnesses. PW-1 is the informant/mother of the victim. PW-2 is the panch of spot panchanama. PW-3 is the niece of the victim who had informed the PW-1 about the fact of victim crying. PW-4 is the lady who has taken the victim for medical examination. PW-5 is the victim who at the relevant time was 7 years old. PW-6 was the neighbour of the informant. PW-7 was the panch. PW-8 is the Medical Officer who examined the accused whereas PW-9- the Headmaster was examined with a view to prove the age of the victim. PW-10 at the relevant time was attached to the Nanded Rural area as Sub-Divisional Police Officer who recorded the statement of the complainant at the Government Hospital, Vishnupuri, Nanded. PW-11 at the relevant time was working as Assistant Police Inspector. PW-11-A was working

as Associate Professor with Dr. Shankarrao Government Medical Hospital at Nanded who examined the victim. PW-12 was the Police Constable attached to the Limbgaon Police Station who carried the samples to the chemical analyzer office.

9. With the support of all witnesses, documentary evidence, the prosecution supported the conviction awarded by the learned trial court.

10. Mr. Suresh P. Salagar, learned Advocate who is appointed by the Legal Aid has ably assisted this court for deciding the appeal. A word of appreciation is required to be recorded since he has not only pointed out the various documentary evidence, but with a view to save valuable time of the court has prepared the detailed synopsis.

11. Mr. Suresh Salgar, learned Advocate for the appellant contended that the judgment passed by the court cannot be sustained in the eyes of law as the findings given are not according to the evidence adduced. He submitted that the entire story advanced by the prosecution is not believable. He stated that the conduct of the victim is blame worthy and not reliable. He further submits that several persons i.e. natural witnesses were not examined and benefit of which should have been given to the appellant. According to him, seizure of the clothes was also doubtful. He further submitted that the spot of incident as per testimony of some witness was shown by

the mother and as per other witnesses by the victim. He further submitted that the prosecution had not proved the case beyond the reasonable doubt.

12. Per contra, the learned APP Ms. U. S. Bhosale, contended that the judgment passed by the learned trial cannot be faulted with as the entire material was taken into consideration. She submitted that the testimony of the victim and mother is supported by the medical evidence. She further submitted that lodging of first information report as well as medical examination immediately clearly points out towards the guilt of the accused. She supported the judgment delivered by the learned trial court.

13. The victim of the crime was represented by the Ms. Narwade, who supported the stand taken by the learned APP. She submitted that there is absolutely no reason to disbelieve the testimony of the victim girl. According to her nothing has been brought on record by the accused either by way of cross-examination or entering into the witness box that there was any motive or ground for false implication of the appellant.

14. Rival contention falls for consideration.

15. Since according to the case of the prosecution the victim has suffered injuries due to sexual act committed by the appellant, it is necessary to reproduce the injuries:

“1. Liner abrasion, it was vertically on the left buttock region, 3.5 cm from midline of back direction from above downwards. The size was 3.7 x 0.2 cm. The margins were read and inflamed and the nature of the injury was simple.

2. Injury No. 2 was such that there was laceration of 1.1 x 0.5 cm. It was at 6 O'clock position and it was anal and perennial region. The margins were read, inflamed and irregular. The swelling was present. The nature of the injury was grievous.

3. This injury was again laceration, I twas between 3 to 4 O'clock position and it was in perennial region. Size of the injury was 1 x 0.6 cm. The margin were, red, inflamed and irregular. Swelling and bleeding was present. The injury was grievous in nature.

4. Fourth injury was also of laceration and it was in 8 O'clock position and was in perennial region. The size of the injury was 0.6 x 0.3 cm. The margins were red, irregular and bleeding was present. Nature of the injury was grievous.

5. Fifth injury was again laceration, it was in 11 O'clock position and it was in annal and perennial region and the size of the inquiry was 1 x 0.5 cm. The margin were read. The bleeding was present. Nature of the inquiry was grievous.

6. Sixth injury was again laceration, it was near the left labia majora and minora region, size of the injury was 1.8x1x0.3 cm. The margins were red and irregular, bleeding was present. Nature of the injury was grievous.

7. Seventh injury was laceration, it was near right labial region, size was 1x0.6x0.3 cm, the margins were read, irregular and the bleeding was present. Nature of the injury was grievous.

8. Eighth injury was laceration which was in the midline perennial region having the size of 0.5 x 0.3 x 0.1 cm, the colour of the injury was red and it was irregular, swelling and bleeding was present. Nature of

the injury was grievous.

9. Ninth injury was laceration, it was on posterior lateral part of anus having size 1.3 x 0.4 cm, colour of the injury was red and the bleeding was present. Nature of the injury was grievous.”

16. It is in this background, the testimony of the victim of the crime i.e. PW-5/victim is required to be considered. PW-5 whose deposition is at page 101 of the paper book has stated that on 26-11-2016 she had been to the school and returned back to home at 01.00 pm from the school. After coming to the home from school she had taken meal and playing with sister in the courtyard of the house at which time the accused came and took her to the house so also removed her clothes and opened her and removed nicker and she sustained injury from her back side. According to her she therefore, suffered pain and went to her grandmother. At the relevant time her mother was at agriculture field who immediately came to the house.

17. It is to be noted that at the time of incident the age of the victim was 7 years old. Thus, it is not expected from 7 years girl that she would narrate the incident in detailed. When her mother noticed the injuries, she immediately called her husband and both of them took her to the hospital.

18. The mother of the victim who was informant was examined as PW-1 and her testimony is at page 74. The mother in her cross-examination stated that on 26-11-2016 at about 04.00 pm her

son Uddhav and Soni came when she was working in the field of Gajanan and told that victim was crying. The PW-1-mother immediately rushed to the house. At which time the victim was crying. On being enquired the victim disclosed that the accused took her to his house, slapped her and removed the nicker and slept her on the ground then committed physical contact to anus, as a result of which the victim sustained bleeding injuries to her anus.

19. She in her cross-examination also submitted that there were blood stains over the salwar and Pajama of the victim. She then called her husband and both of them took the victim to the hospital at which place her statement was recorded by the police which is at Exh.12. Before examining the victim, Doctor had obtained her consent which she gave and consent letter was marked as Exh.13. She further deposed that on 27-11-2016, the police came to the spot of the occurrence and prepared spot panchanama and seized the clothes of the victim under the panchanama. The spot panchanama is at Exh.15. In the spot panchanama i.e. internal page No. 4 it is mentioned that from the spot of the incident, blue colour nicker was seized. The spot of the occurrence is the house where the appellant was residing.

20. Clothes of the accused as well as victim were seized under section 165 of the Cr. P. C. below Exh.16 and 17. Both the

victim/PW-5 and PW-1 were subjected to cross-examination. So far as PW-5 is concerned in her cross-examination the defense tried to establish a case that at the time of incident, the grandmother was present in the courtyard of the house, so also several other persons. An attempt was also made to make out the case that injuries were sustained by the victim not due to act committed by the appellant, but due to fall on the wooden log. In order to take a defense to the logical end it was brought on record that in order to tie the goats several wooden logs were fixed in the soil. Further attempt was made to disbelieve story advanced by the prosecution by bringing on record that shop of one Kantabai is situated adjacent to the house of the victim and the house of the appellant. A motive was tried to be established by giving suggestion to PW-1 that there were enemical terms between the family of appellant and the family of the victim.

21. PW-1 was also subjected to cross-examination. In cross-examination her testimony was tried to be assailed by contending that in the family of the accused there were three brothers alongwith wives, so also parents who were in the house. Thus, according to the appellant, it would not be possible for the accused to take the victim from the courtyard where the grandmother of the victim was sitting and commit the act where several persons were residing. Similarly, an attempt to justify the injuries due to fall on wooden log was made in

cross-examination. Even seizure of clothes was challenged. In order to challenge credibility of this witness, it was suggested to her that false case was filed against the accused on the say of Sarpanch and Police Patil of the village.

22. Connecting evidence of PW-1 and PW-5 is of PW-3 who is niece of the victim aged about 14 years. On the day of incident said PW-3 was playing with the victim and at about 02.30 to 03.00 pm grandmother of the victim was sitting in the courtyard and victim was crying while sitting with the grandmother. When grandmother enquired the victim about crying, she did not utter a single word. Therefore, grandmother told PW-3 to call the mother of the victim.

23. Accordingly, this PW-3 along with other went to the field calling the mother. The said fact of informing is also supported by the testimony of PW-1. In cross-examination nothing has been brought on record except an attempt to show that her statement was read over by the police to her. It was also suggested to her that in fact no such incident had taken place and grandmother had never informed her about calling PW-1 from the spot. It is to be noted that just because the grandmother and other witnesses were not examined by the prosecution it does not mean that testimony advanced is required to be ignored. In catena of cases it is made clear that testimony of the prosecutrix needs no corroboration. Further ground taken regarding

false implication is not supported by any cogent and reliable material.

24. If Exh.67/medical evidence i.e. page No.154 of the paper book is perused it would reveal that the Medical Officer has specifically opined that injuries are afresh i.e. six hours meaning thereby that injuries might have sustained prior to six hours from the cross-examination. This also gives corroboration to the testimony advanced by the informant, victim and PW-3.

25. The contention of the learned Advocate for the appellant that injuries might have been caused due to falling on the wooden log or stone cannot be accepted, since the Medical Officer in his cross-examination has categorically stated in cross-examination that there was consistent anal penetration and attempted vaginal penetration. Though According to the learned Advocate for the appellant CA report fails to support the case of the prosecution as neither blood was noticed nor semen on the clothes, fact remains that testimony of proseturix is consistent.

26. One more aspect which requires to be taken into consideration is the stand taken by the accused while answering the question put to him under Section 313 of the Cr. P. C. Except mere denial no specific case was made out which is clear from question No. 55 where the accused has answered that due to domestic quarrel a false case is filed against him.

27. In the aforesaid background the learned trial court has appreciated the evidence in correct and proper manner, thus, I do not find any reason to interfere with the judgment impugned. Accordingly, the appeal is dismissed as the prosecution by leading cogent and reliable evidence has proved the ingredients of the offence for which the appellant was charged and convicted.

28. Ms. Narwade, learned Advocate (appointed) has ably assisted the court. Her fees are quantified at Rs.5000/-.

[RAJNISH R. VYAS, J.]

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