

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
APPEAL NO.504 OF 2024**

XYZ, Age: 19 years,
Through Islampur Police Station,
Crime No.384 of 2022.

.....Appellant

Vs.

1. Yogesh Niwas Jadhav,
Age: 32 Years, Occu.: Agriculture,
R/o. Shivanagar, Islampur,
Taluka : Walwa, District : Sangli,
Pin Code No. 415 409.

2. The State of Maharashtra,
Through Islampur Police Station.

.....Respondents

Mr. Shivprasad Gaikwad, i/b. Mr. Umesh Pawar, for the Appellant.
Mr. Pranav Borgave with Mr. Ajit Kapale, for the Respondent No.1.
Mr. Shrikant H. Yadav, APP, for the Respondent No.2-State.

**CORAM : MRS. VRUSHALI V. JOSHI, J.
RESERVED ON : 9th FEBRUARY 2026
PRONOUNCED ON : 18th FEBRUARY 2026**

JUDGMENT :-

1. Heard the learned counsel appearing for both the parties.
2. **Admit.** With consent of the parties, the Appeal is heard finally.
3. Being aggrieved and dissatisfied by the impugned Judgment and Order dated 15th December 2023 passed by the learned Special

Judge, Islampur, Dist.- Sangli in Special Case No.36 of 2022, under Sections 354-A (i) (ii), 354-D of the Indian Penal Code (**'IPC'**) and Sections 8, 10, 12 of the Protection of Children from Sexual Offences Act, 2012 (**'POCSO'**). The Appellant i.e. original informant/victim has approached this Court by way of an Appeal challenging the findings of acquittal vide the impugned Judgment.

4. The factual matrix is as under:-

The informant, a XII standard student residing at Islampur with her family, was acquainted with the accused through Smt. Gajrabai Jadhav, an elderly woman, whom the informant's family often assisted. The accused, being Gajrabai's step-grandson, visited her frequently.

5. On 20th April 2022, while the informant was searching for a gown at Gajrabai's house, the accused approached her, hugged her from behind, and made an indecent proposal coupled with an offer of money. The informant resisted and left without disclosing the incident due to her father's illness. After about fifteen days from the said incident, a similar incident had occurred, when the accused

pulled her inside while she was cleaning, hugged her, and repeated his proposal, which she had resisted and did not tell about the same to anyone as her grandmother was unwell.

6. On third occasion, on 9th June 2022, while preparing tea at Gajrabai's house, the accused again hugged and rubbed against her despite her resistance. The informant pushed him away and went to her paternal aunt's house and immediately narrated the incident to her paternal aunt and cousin, later informing her parents. A formal complaint was lodged, leading to registration of C.R.No.384 of 2022 at Islampur Police Station under Sections 354-A(i)(ii), 354-D IPC and Sections 8, 10, 12 of the POCSO Act. The police investigated and filed a charge sheet. The Special Judge, Islampur, District Sangli, by judgment dated 15th December 2023 in Special Case (POCSO) No. 36 of 2022, acquitted the accused.

7. The victim, being aggrieved, has preferred the present appeal challenging the acquittal on the ground that the trial Court failed to properly appreciate the prosecution evidence, which according to her establishes the case beyond reasonable doubt.

8. Major grounds on which the present Appeal has been preferred are as thus:-

(a) The learned trial Court erred in discarding the victim's testimony merely because she did not disclose the first two incidents immediately. The Court failed to appreciate the peculiar circumstances of her father's serious illness and the social stigma attached, which reasonably explained the delay.

(b) The trial Court wrongly treated the delay in lodging the FIR as fatal. The prosecution clearly established *bona fide* reasons for the delay, including the victim's father's health condition, illiteracy of the parents, and the assurance given by Gajrabai to keep the matter quiet.

(c) The learned Judge failed to properly consider the victim's statement under Section 164 of the Code of Criminal Procedure ('**Code**'), wherein the accused himself apologized after the first incident, thereby indicating a culpable mental state and supporting the prosecution case.

(d) The findings of the trial Court are based on surmises and

conjectures, such as questioning why the victim continued visiting Gajrabai's house or why her mother sent her alone, which are irrelevant considerations unsupported by evidence.

9. The Learned counsel appearing on behalf of Appellant submits that the learned trial Court erred in acquitting the accused despite the prosecution having proved its case beyond reasonable doubt. The victim's testimony was consistent and credible, and her disclosure to family members after the third incident provided sufficient corroboration. The Court failed to appreciate that her silence regarding earlier incidents was due to her father's serious illness and the social stigma attached, which reasonably explained the delay.

10. It is further contended that the delay in lodging the FIR was satisfactorily explained, as the family was initially persuaded by Gajrabai to remain silent, and once the victim disclosed the incident to her parents, the FIR was promptly registered. The trial Court also overlooked the victim's statement under Section 164 of the Code, wherein the accused himself apologized after the first incident, clearly indicating culpable mental state.

11. The counsel for the Appellant submits that the trial Court's findings are based on conjectures, such as questioning why the victim continued visiting Gajrabai's house, which are irrelevant considerations. The settled principle of law is that the sole testimony of the victim, if credible, is sufficient to sustain conviction. The acquittal, therefore, suffers from misappreciation of evidence and misapplication of law.

12. *Per Contra*, learned counsel appearing on behalf of the Respondent No.1/accused vehemently opposed the arguments advanced on behalf of the Appellant. It is submitted that the learned trial Court rightly acquitted the accused after a full and fair appreciation of the evidence. It is contended that the prosecution case suffers from material inconsistencies and unexplained conduct on the part of the victim, which casts serious doubt on the reliability of her testimony. The victim neither disclosed the first two alleged incidents to anyone, nor did she avoid visiting the house of Gajrabai thereafter, which undermines the credibility of her version.

13. The counsel for the Respondent No.1 further submits that the delay in lodging the FIR was not satisfactorily explained. The alleged

reasons of illness of the victim's father and family circumstances cannot justify withholding disclosure of such serious allegations. The trial Court correctly held that the delay created doubt about the genuineness of the complaint.

14. It is also submitted that the victim's statement under Section 164 of the Code does not establish guilt, as the alleged apology by the accused cannot be treated as an admission of offence. The trial Court rightly held that such circumstances are insufficient to prove culpable mental state beyond reasonable doubt.

15. The counsel for the Respondent No.1 emphasizes that the trial Court's findings were based on proper appreciation of evidence and not on conjectures. The prosecution failed to produce independent corroboration, and the testimony of the victim alone, in the face of contradictions and unexplained delay, could not sustain conviction. The acquittal, therefore, was justified and does not warrant interference

16. Heard the learned counsel appearing for both the parties.

17. The victim has challenged the Judgment and Order of acquittal

in the POCSO case. The allegations made against the accused are that he embraced her when she was alone in the house of the grandmother of the accused. The incident occurred three times and at the third time she disclosed it to her paternal aunt and thereafter, it was disclosed to her parents and they lodged the complaint. The three incidents which the Appellant has mentioned are: one on 20th April 2022, thereafter, second after 15 days from 20th April 2022 and third on 9th June 2022. The accused attempted to embrace her and asked her to fulfill his desire and he would give her money. These are the allegations.

18. On perusal of the evidence of the Appellant, it appears that she can disclose it immediately after the first or second incident, but she did not and after the third incident, though she has narrated it, the complaint was lodged after one day. The delay is not properly explained. The reason given by the Appellant for delay is illness of her father and her grand-mother. There is neither proof nor any material to prove her explanation for delay. Moreover, there is a discrepancy in her statements recorded under Section 164 of the Code of Criminal Procedure and under Section 161 of the Code and

the evidence. During the course of evidence, it was brought on record that she has improved her version at the time of giving the statement under Section 164 of the Code.

19. The P.W.No.2-the mother of the victim has also stated entirely different facts during her statement under Section 164 of the Code. The monetary transaction between both the families is brought on record, which was denied during cross-examination, but the statement under Section 164 of the Code discloses the transaction between both these families.

20. Though Gajrabai in whose house the said incident took place, and whose step-grand son was the accused is aware of the incident, the police did not record her statement. Though it is a well-settled principle of law that the conviction can rest solely on the testimony of the victim alone, considering the delay in disclosing the incident even though the allegations about sexual favours and inappropriate and indecent behaviour of the accused are made, so also the date or period of the second incident is not mentioned by the Appellant, it creates doubt regarding the prosecution case.

21. The case is not proved beyond reasonable doubt. Hence, the trial Court has rightly acquitted the accused. The interference at the hands of this Court is not warranted. Hence, the Appeal stands dismissed.

(MRS. VRUSHALI V. JOSHI, J.)

Digitally
signed by
RAJU
DATTATRAYA
GAIKWAD
Date:
2026.02.24
20:49:28
+0530