



993.2019APPEAL2

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

CRIMINAL APPEAL NO. 993 OF 2019

The State of Maharashtra
(Through P.S.O., Police Station,
Kannad, Tq. Kannad, Dist. Aurangabad)
... APPELLANT

VERSUS

Anil Shridhar Gaikwad
Age : 25 years, Occ : Labour,
R/o Diwshi Pimpalgaon,
Tq. Gangapur, Dist. Aurangabad
At present Awarala, Tq. Kannad,
Dist. Aurangabad.

... RESPONDENT

...
Mrs. U.S. Bhosale, APP for the appellant/State
Ms. Harsha R. Lomte, Advocate for respondent (appointed)
...

**CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ.**

**RESERVED ON : 18th July, 2026
PRONOUNCED ON 10th August, 2026**

JUDGMENT [Per Vaishali Patil-Jadhav, J.] :

. The present appeal is filed by the Appellant-State against the judgment and order of acquittal dated 19.04.2017 passed by the learned Additional Sessions Judge, Aurangabad (hereinafter referred to as “the learned Trial Court”), in Sessions Case No. 316 of 2012, whereby

the respondent-accused was acquitted from the offences punishable under Sections 363, 376 and 323 of the Indian Penal Code, 1860 (for short 'IPC').

2. The prosecution case, in brief, is as under:

The informant-Gayabai Subhash Pawar (PW-1) is a resident of Aurala, Tq. Kannad, Dist. Aurangabad. She has two sons and two daughters. The victim (PW-8) is her younger daughter, aged about 6 years at the time of the incident.

On the day of the incident i.e. 03.05.2012, Thursday, which was the bazaar day of village Aurala, the informant had gone to the bazaar. Victim was watching television at the house of Kantabai Pawar who is wife of her brother (Vahini). At about 3.00 to 3.30 p.m., when the informant returned from the bazaar, she noticed that victim was not present at the house. The informant, her husband and her cousin nephew Walmik Pawar searched for victim but she was not found.

At about 5.00 p.m., Chandrabhagabai Raosaheb Pawar (PW-2), the mother-in-law of the informant, found

the victim lying unconscious under a tamarind tree in Panand and there was bleeding from her private part. She lifted her and brought her to the house. After some time, she regained consciousness. On inquiry, the victim told that while she was watching television at the house of Vahini, the accused came there and asked her to accompany him to the flour mill, he then tied her eyes, lifted her, and took her towards the dam, removed her chaddi, sat on her person and gave her a slap.

The informant took the victim to the Government Hospital at Aurala, where she was not examined. The doctor advised them to approach the police. Accordingly, the matter was reported to the police by the informant and the victim was referred to the Government Hospital, Aurangabad for medical examination. On the basis of her report, Crime No. I-24/2012 was registered with Deogaon Rangari Police Station for the offences punishable under Sections 363, 376 and 323 of the IPC.

During investigation, the Investigating Officer (PW-9) seized the clothes of the victim under panchanama, visited the place of incident, drew spot panchanama, and

recorded statements of witnesses. The accused was arrested on 14.05.2012 from Lohara, Tq. Nandgaon. His clothes were seized under panchanama and he was referred for medical examination. During police custody, the accused made a voluntary statement which led to the recovery of the victim's chaddi in the grass near the river. All seized articles were sent for chemical examination. After due investigation, chargesheet was filed before the learned Judicial Magistrate, First Class at Kannad, and the learned Magistrate committed the case to the Sessions Court.

3. The learned Trial Court framed charge for the offences punishable under Sections 363, 376 and 323 of the IPC. The accused pleaded not guilty and faced trial. His defence under Section 313 of the CRPC was of total denial.

4. The prosecution examined nine witnesses in all, PW- 1 Gayabai Subhash Pawar, the informant and mother of the victim, PW-2 Chandrabhagabai Raosaheb Pawar, grandmother of the victim, PW-3 Sk. Rafiq Sk. Majid, Pancha Witness for seizure of clothes, PW-4 Jaywant Hiranman Pagare, Pancha Witness for Spot Panchanama, PW-5, Santosh Laxman Khiradkar, Pancha Witness for

memorandum Panchanama, PW-6 Dr. Sanjog Prakashchand Pahade, Medical Officer who examined the accused after arrest, PW-7 Dr. Sanjay Bhaskarrao Pagare, Medical Officer who examined the victim, PW-8, the Victim and PW-9 Vishwanath Asrajirao Jagtap, the Investigating Officer. The prosecution also relied upon the Spot Panchanama- Exhibit 46, Memorandum Panchanama- Exhibit 48 and 49 respectively, Medical Certificate- Exhibit 65 and Chemical Analysis reports Exhibits 79 to 81.

5. The learned Trial Court, by its judgment and order dated 19.04.2017, acquitted the respondent-accused of all charges. Being aggrieved by the judgment of acquittal, the State has filed the present appeal.

6. Learned APP appearing for the State submitted that the sole testimony of the prosecutrix, if found trustworthy and reliable, is sufficient to base a conviction in a rape case, and no corroboration is required. It was submitted that the victim was a child of tender age of 6 years, and it is not expected from her to describe the act of rape accurately. Her inability to describe the act in detail cannot be held against the prosecution. The medical

evidence clearly establishes that the victim's hymen was ruptured and there was a second-degree perennial tear with minimal bleeding, which corroborates the prosecution case.

It was submitted that the victim being of tender age, it was not possible for her to offer resistance or to understand the consequences of the act. The victim became unconscious after the incident, which indicates the severity of trauma and pain she suffered.

It was further submitted that the defence of the accused was merely of total denial. The accused did not even deny his presence in the village where the incident occurred.

It was also submitted that the non-examination of Kantabai Pawar and minor discrepancies in spot panchanama cannot be treated as fatal to the prosecution case, especially when the victim herself has deposed before the Court.

Lastly, learned APP submitted that the inconsistencies pointed out by the Trial Court are minor in nature and do not go to the root of the prosecution case and thus prayed that the appeal be allowed and the respondent be convicted for the offences as charged.

Learned APP in support of her contention has relied on **S. Govindaraju Vs. State of Karnataka, [(2013) 15 SCC 315]** and **Phool Singh Vs. State of Madhya Pradesh [AIR 2022 SC 222]**.

7. Learned advocate for the respondent supported the judgment of the Trial Court and submitted that there is no perversity in the impugned judgment. It was submitted that the Trial Court, after dealing with the oral and documentary evidence, rightly concluded that the prosecution had failed to establish its case beyond reasonable doubt. It was prayed that the appeal being devoid of merits, be dismissed.

Learned Advocate for the respondent, in support of her contentions has relied on **Krishnegowda and others Vs. State of Karnataka by Arkalgud Police**

[2017AIR(SC)1657] and Esakkimuthu Vs. State Represented by the Inspector of Police [2025 SCC OnLine SC 1496].

8. Heard learned APP Ms. U.S. Bhosale for the appellant-State and learned advocate Ms. Harsha R. Lomte for the respondent. We have perused the impugned judgment so also, the record and proceedings of the matter.

9. Before advertng to the facts and merits of the matter, it will be apposite to refer to the judgment of the Hon'ble Supreme Court in the case of **Ghurey Lal Vs. State of U.P.** reported in **(2008) 10 SCC 450**, wherein, the Court after considering a catena of judgments has made the following observations on the appellate court's power to reverse an acquittal:

“72. The following principles emerge from the cases above:

1. The appellate court may review the evidence in appeals against acquittal under sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can reappreciate the entire evidence on record. It can

review the trial court's conclusion with respect to both facts and law.

....."

10. It will also be apposite to refer to the observations of the Hon'ble Apex Court in the case of **Shingara Singh Vs. State of Haryana and another**, reported in **AIR 2004 SC 124**, which read thus:

"It is well settled that in an appeal against acquittal the High Court is entitled to re-appreciate the entire evidence on record but having done so if it finds that the view taken by the trial Court is a possible reasonable view of the evidence on record, it will not substitute its opinion for that of the trial Court."

11. In the case of **Chandrappa and Ors. Vs. State of Karnataka** reported in **MANU/SC/7108/2007:(2007) 4 SCC 415**, the Hon'ble Supreme Court has laid down the following general principles regarding the powers of an appellate Court while dealing with an appeal against an order of acquittal:

"(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

12. Further in **S.Govindaraju (supra)**, the Hon'ble Supreme Court has observed that :-

"20. It is a settled legal proposition that in exceptional circumstances, the appellate court, for compelling reasons, should not hesitate to reverse a judgment of acquittal passed by the court below, if the findings so recorded by the court below are found

to be perverse i.e. if the conclusions arrived at by the court below are contrary to the evidence on record, or if the court's entire approach with respect to dealing with the evidence is found to be patently illegal, leading to the miscarriage of justice, or if its judgment is unreasonable and is based on an erroneous understanding of the law and of the facts of the case. While doing so, the appellate court must bear in mind the presumption of innocence in favour of the accused, and also that an acquittal by the court below bolsters such presumption of innocence."

13. From a perusal of the above noted observations it is clear that, while exercising appellate jurisdiction, the High Court has the power to review at large the evidence upon which the order of acquittal was founded and to reach at its own conclusions upon the evidence. If the Trial Court has taken a reasonable view, then the High Court will not interfere in the order of acquittal merely because other view is possible. But, if the judgment of the Trial Court is perverse or suffers from serious errors of law and is passed by ignoring the relevant material on record, the High Court is justified in reversing the order of acquittal.

14. Keeping these principles in mind, we proceed to examine the evidence on record and decide whether the learned Trial Court was justified in acquitting the

respondents or whether the view taken was contrary to the evidence on record.

15. Before proceeding to examine the merits of the appeal, it is necessary to set out the main reasons assigned by the learned Trial Court for acquitting the respondent-accused. The judgment of acquittal is based on the following grounds:

(i) Kantabai Pawar (the Vahini of victim) was not examined, at whose house the victim was watching television when the accused took her away.

(ii) The victim was firstly taken to the doctor at Aurala. Prosecution did not explain satisfactorily as to why the victim was not examined by the doctor at Aurala.

(iii) The victim stated that the accused removed her chaddi, sat on her person and gave her a slap. Victim was very much silent about any sexual activity of the accused.

(iv) The medical evidence is self- contradictory and creates reasonable doubt as, the certificate issued by PW-7 Dr. Sanjay Pagare shows history and clinical finding “suggestive of attempt to penetrative vaginal sexual intercourse.” Penetrative vaginal intercourse and attempt to penetrative vaginal intercourse are altogether different.

(v) Inconsistent evidence regarding the spot of incident as PW-2 Chandrabhagabai stated that the victim was found under a Tamarind tree in Panad, PW-8 Victim said that the incident happened in the crop of maize and PW-9 Investigating Officer said that the place of incident is situated in the land of Kailas Waghchaure under a Siras tree.

(vi) There is a gap of 16 days in between the Spot Panchanama Exhibit 46 and the Discovery Panchanama Exhibit 49 when the place of incident was well within the knowledge of the police.

(vii) The C.A. Reports at Exhibits 79 to 81 pertaining to the clothes of victim are inconclusive.

(viii) The accused was not a resident of village Aurala and there is a difference in the name of the accused. Initially, his surname was reported to the police as Anil More and later on, it is reported as Anil Gaikwad.

16. The first and foremost issue that arises for our consideration is whether the testimony of the victim (PW-8) coupled with medical evidence can be relied upon to convict the accused. The Trial Court has discarded the evidence of the victim on the ground that she was 'silent about any sexual activity of the accused' and she only stated that the accused removed her chaddi and sat on her person and gave her a slap. The trial Court has discarded PW-7 Doctor's evidence as contradictory though the medical certificate clearly gives opinion that **"history and clinical finding suggestive of attempt to penetrative vaginal sexual intercourse"** and the certificate also mentions that **"blood stains were found on clothes of the victim, hymen was ruptured, there was second degree perennial tear with minimal bleeding present, blood stains present on genitals."**

17. Here, it will be apposite to refer to the observations of Hon'ble Supreme Court in the case of **State of Punjab Vs. Gurmit Singh**, reported in **(1996) 2 SCC 384** which read as under:

"21... The courts should examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix, which are not of a fatal nature, to throw out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars. If for some reason the court finds it difficult to place implicit reliance on her testimony, it may look for evidence which may lend assurance to her testimony, short of corroboration required in the case of an accomplice. The testimony of the prosecutrix must be appreciated in the background of the entire case."

18. Further, in the case of **Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat** reported in **(1983) 3 SCC 217**, the Hon'ble Supreme Court has observed as under:

"9. In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion?"

19. In the case of ***Phool Singh (supra)***, the Hon'ble Supreme Court, while relying upon the observations in ***Sham Singh Vs. State of Haryana; (2018) 18 SCC 34***, reaffirmed the well-settled position regarding the sole testimony of a prosecutrix. The Court in ***Sham Singh (supra)*** had relied on the earlier judgments in ***Gurmit Singh (supra)*** and ***Ranjit Hazarika Vs. State of Assam; (1998) 8 SCC 635*** to hold that the testimony of a victim of sexual assault is vital and, unless there are compelling reasons to seek corroboration, the Courts should act on her sole testimony if it inspires confidence. The Court further observed that seeking corroboration as a rule amounts to adding insult to injury. It was further cautioned that the Courts shoulder a great responsibility while trying such cases and must deal with them with utmost sensitivity, examining the broader probabilities of the case without being swayed by minor contradictions or insignificant discrepancies which do not go to the root of the matter.

20. The principles set forth above have been recently reiterated by the Hon'ble Supreme Court in the case of ***Lok Mal @ Loku v. State of Uttar Pradesh; 2025 INSC 344***.

The Hon'ble Supreme Court reaffirmed the well-settled position that the evidence of a prosecutrix in a case of rape is of the same value as that of an injured witness, and a conviction can be safely founded on the basis of her sole testimony if it inspires confidence and is found to be trustworthy. It was further observed that the refusal to act on the testimony of a victim of sexual assault in the absence of corroboration, as a rule, amounts to adding insult to injury. Applying these principles to the facts of that case, the Hon'ble Supreme Court held that the testimony of the prosecutrix was trustworthy and left no shadow of doubt to discredit her case, especially when the accused had failed to cause any dent in her testimony.

21. Thus from the observations made by the Hon'ble Supreme Court in various judgments reproduced above, it is a settled position of law that the evidence of a prosecutrix in cases of rape has the same value as that of an injured witness and conviction can be based on the sole testimony of the prosecutrix when found reliable and trustworthy.

22. The victim in the present case was a child of tender age, 6 years old at the time of the incident. A child of such tender age cannot be expected to narrate the act of rape with precision. A child victim of sexual assault is often traumatized and unable to state the details of the sexual act. The inability of a minor victim to describe the sexual act in clear terms cannot be a ground to discard her testimony, especially due to tender age when she is not capable of understanding the same.

23. The trial Court has treated the victim as a child witness and her evidence was recorded in question and answer form as PW-8. The victim in the present case has in her statement at Exhibit-64, recorded on 04.05.2012 and in her examination-in-chief at Exhibit -67, recorded on 24.02.2017, specifically stated that she was watching T.V. at the house of Vahini. Anya came there. He asked her to accompany with him upto the flour mill. He tied her eyes and lifted her and took her towards the dam. He removed her Chaddi and sat on her person. He gave slap to her. Her cheek was swollen due to the slap given by the accused. When asked, whether she can identify Anya, the victim said

"yes" and stated that he is the same, who is on video conference and stated that due to the incident there was pain in her Oti (Uterus). When asked, the victim stated that when she regained consciousness, she saw her mother, wife of her brother, who inquired with her as to who did this, to which she replied Anya had taken her. Her cross-examination has remained unshaken.

24. Perusal of her examination-in-chief and cross shows that the victim is consistent with the statement even after four and a half years of the incident. This testimony coming from a child cannot be lightly brushed aside. In her evidence, she specifically takes the name of the accused and describes the incident as per her understanding as a child. A child of such tender age cannot be expected to have any motive to falsely implicate the accused. A child victim's testimony is not to be tested on the same parameters as that of an adult witness.

25. The Medical certificate at Exhibit-65 notes the following observations :-

(i) The blood stains present on clothes.

(ii) Blood stains present on genitals

(iii) Hymen was ruptured.

(iv) There was a second-degree perennial tear with minimal bleeding.

(v) Opinion :- "History and clinical findings suggestive of attempt of penetrative vaginal sexual intercourse."

Dr. Sanjay Pagare, PW-7, who was serving in Ghati Hospital, Aurangabad, who had examined the victim, has deposed that history and clinical findings were suggestive of penetrative vaginal intercourse. Whereas in the Medical Certificate he used the words "history and clinical findings suggestive of penetrative vaginal intercourse". The trial Court found the doctor's evidence contradictory. Taking both the sentences as it is and the clinical observations that blood stains were present on clothes, hymen was ruptured and second degree perennial tear with minimal bleeding was found, clearly indicate that there was penetrative vaginal sexual intercourse. Thus, the medical evidence corroborates with the evidence of the victim.

26. The memorandum form and seizure panchanama are at Exhibit-48 and Exhibit-49. At the instance of the accused, nicker of the victim was seized from the grass near the river on 20.05.2012. The accused himself showed the spot where he had kept the nicker stating that he had kept it in "Panthal" (पानथळ). The nicker of the victim was found with blood stains. This seizure of nicker also corroborates the testimony of the victim wherein she had stated that accused had removed her Chaddi. The seizure also supports Chandrabhagabai's deposition, wherein she had stated that when she found the victim, she was unconscious and nicker was not on the person of the victim. The clothes of the victim and Chaddi were sent for forensic examination. In the C.A. report (Exhibit-79) blood stains were found on the clothes but the final report is inconclusive.

27. Regarding the spot of incident, the victim has stated that the incident happened in a Maize Crop, PW-2 Chandrabhagabai has stated that she found the victim lying under a Tamarind Tree in the Panand and PW-9 Vishwanath who conducted the spot panchanama states

that the place of incidence is situated in the land of one Kailas Waghachaure under a Siras Tree. On a careful perusal of the spot panchanama at Exhibit 46, it reveals that though there is difference in the statements of the victim and two witnesses, all of the places mentioned by them are in and on the same place. In the spot panchanama it is mentioned that the spot of incident is 50 feet away from the bandh of the field of one Joshi under a tamarind tree in 1/2 feet deep Panand. Only wording of the description differs. The victim was found lying unconscious under a tamarind tree in Panand, which is corroborated by the evidence of PW-1 Gayabai and PW-2 Chandrabhagabai. Moreover, the alleged inconsistency regarding the spot of incident is not of such a nature as to cast doubt on the entire prosecution case. The other lacunas observed in the spot panchanama are committed by the investigating officer and cannot be used to disbelieve the victim.

28. The defence of the accused is of total denial. The accused has not even denied his presence in the village where the incident occurred. No suggestion has been put to the prosecution witnesses to indicate any enmity or motive

for false implication. In the absence of any defence, the prosecution case stands unrebutted.

29. Applying the principles of law as noted in paras 17 to 20, it is a settled principle of law that in cases of rape, the sole testimony of the prosecutrix, if found trustworthy and reliable, is sufficient to base a conviction. In the present case, as discussed above, we find that the testimony of the child victim inspires confidence and is trustworthy, which is corroborated by the medical evidence and seizure panchanama and leaves no shadow of doubt to discredit the prosecution case. Thus, the other findings of the Trial Court based on minor omissions, contradictions and discrepancies cannot be treated as fatal to disbelieve the prosecution's case.

30. The judgments relied upon by the learned counsel for respondent are of no help to the respondent, considering the facts and circumstances of the present case.

31. Taking into consideration the principles regarding the powers of an appellate Court to reverse an

acquittal and in view of the above discussion, we are of the considered view that the findings of the Trial Court reflect a complete misreading of the evidence on record. The Trial Court has failed to appreciate the credibility and trustworthiness of the victim's testimony and has given undue importance to minor discrepancies which are not fatal to the prosecution case. The approach of the Trial Court is perverse and the findings recorded are contrary to the evidence on record.

32. We, therefore, hold the respondent-accused guilty for committing the offences punishable under Sections 363 and 376 of the IPC by reversing the judgment and order of acquittal passed by the learned Trial Court.

33. The incident in question in this case is of 03.05.2012. The judgment is of 19.04.2017. Amendment to Section 376 came in the year 2018. In the year 2012, Section 376 read thus :-

"376. **Punishment for rape.**- (1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than

seven years, but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the women raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years."

34. The record shows that the respondent-accused was arrested in connection with the aforesaid crime on 14.05.2012, but he was an under trial prisoner and was released on 19.04.2017, on conclusion of trial by the learned Trial Court. That means, though he was acquitted, he had already undergone imprisonment for around five years. It is significant to note that at the time of incident, the age of respondent-accused was around 22 years, and therefore, considering lapse of time till passing of this judgment, he must be around 36 years of age. The learned counsel for the respondent-accused, on instructions, submits that during this period, he has got married. In

view of the same, though Section 376 of IPC provides punishment of imprisonment which may extend to life, we are of the opinion that the minimum sentence as provided in the then Section 376 at the time of incident, of seven years, may be imposed on him along with certain fine. We have also considered the question of granting compensation to the victim. However, we refrain from awarding the same, for the reason that the victim, who was only 6 years of age at the time of the incident in 2012, is now approximately 20 years old. She is married and settled in life with two children. Any requirement on her part to approach the Court for claiming compensation would compel her to revisit the traumatic incident of her childhood, thereby disturbing her present settled life, which we wish to avoid. Accordingly, we proceed to pass the following order :-

ORDER

- (i) Criminal Appeal No.993 of 2019 is partly allowed.
- (ii) The impugned judgment and order dated 19.04.2017 in Sessions Case No.316/2012 passed by the Additional Sessions Judge, Aurangabad thereby acquitting

respondent-accused Anil Shridhar Gaikwad of the offence punishable under Sections 363, 376 of the IPC is set aside and instead the respondent-accused Anil Shridhar Gaikwad is convicted for offence punishable under Sections 363 and 376 of the IPC. He is acquitted of the offence under Section 323 of the IPC.

(iii) The respondent-accused Anil Shridhar Gaikwad is convicted for the offence punishable under Section 363 of the IPC and sentenced to suffer rigorous imprisonment for three years. The respondent-accused shall pay fine of Rs.3,000/-, in default, to undergo imprisonment of one month.

(iv) The respondent-accused Anil Shridhar Gaikwad is convicted for the offence punishable under Section 376 of the IPC and sentenced to suffer rigorous imprisonment for seven years. The respondent - accused shall pay fine of Rs.5,000/-, in default, to undergo imprisonment of three months.

(v) All these sentences shall run concurrently.

(vi) The respondent - accused is entitled to the benefit of set off under Section 428 of Cr.P.C. for the period from 14.05.2012 to 19.04.2017.

(vii) The respondent-accused shall surrender before the trial Court within one month from the date of this order and his bail bonds stand surrendered.

(viii) The fees of learned counsel for respondent is quantified for Rs.10,000/- and it be paid to her through the High Court Legal Services Sub-Committee, Aurangabad as expeditiously as possible.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE

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