HIGH COURT OF JUDICATURE AT BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.792 OF 2015

Satish s/o Ramesh Nandre
Age: 38 years, Occu.: Labourer,
R/o. Shenpur, Tq. Sakri,
Dist. Dhule. .. **Appellant**

Versus

1. The State of Maharashtra
Through Sakri Police Station,
Sakri, Dist. Dhule.

2. XYZ .. **Respondents**

...

Mr. P. P. Dawalkar, Advocate for appellant. (Appointed)
Mrs. V. S. Choudhary, APP for respondent No.1 - State.
Mrs. Renuka B. Ghule, Advocate for respondent No.2 (Appointed Through Legal Aid).

...

CORAM : SMT. VIBHA KANKANWADI AND
Y. G. KHOBRAGADE, JJ.

DATE : March 15, 2023.

JUDGMENT :- ***(Per Smt. Vibha Kankanwadi, J.)***

. The appellant is the original accused in Sessions Case No.225 of 2012. He has been held guilty of committing offence punishable under Section 376(2)(f) of the Indian Penal Code and has been sentenced to suffer rigorous imprisonment for fifteen years and to pay fine of Rs.5,000/-, in default to suffer simple imprisonment for

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two months. He has been further held guilty of committing offence punishable under Sections 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "Atrocities Act") and has been sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.2,000/- in default to suffer simple imprisonment for 20 days. The fine amount if realized, is directed to be given to the victim as compensation and it is to be given in the name of informant as guardian of the minor victim. The present appeal challenges this judgment and order by the learned Special Judge, Dhule passed on 19.03.2015.

2. The prosecution story in short is that the informant lodged FIR to Sakri Police Station on 13.09.2012. Informant is the mother of the victim. Victim was aged 6 years on the date of the incident. The incident took place at 8.00 p.m. on 12.09.2012. The informant - mother and her in-laws were in the house and the husband i.e. father of the victim had gone to another village. The victim came crying inside the house and she was holding her nicker/shorts in her hand and the blood oozing from her private part was coming down from the thighs. She complained about the pain in the private part. Thereupon the informant - mother asked her as to what has happened. The girl disclosed that when she was playing in the

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courtyard of their house, a person came and by gagging her mouth, lifted her on his shoulder and then took her to the bank of the river in the said village. That person slapped her and threatened that if she cries anymore, he would cut her into pieces. The said person laid her over the grass near the bank of the river and then after taking out lower clothes, slept on her. She also disclosed that there was severe pain to her and she started to cry and then the said person assaulted her and ran away towards another village from the river. After the said disclosure by the girl to the mother, the mother disclosed it to her father-in-law. They had taken the victim to the spot and she had then shown the said spot to them. The grass at the said spot was trodden and then the informant had gone to the police station and lodged the report.

3. After the registration of the offence vide Crime No.180 of 2012 with Sakri Police Station, the victim was referred to Civil Hospital, Dhule and the medical examination was conducted. It is the further prosecution story that the victim was in shock from 13.09.2012 to 16.09.2012, as she was not in a position to talk. Her statement was not recorded, but then after she was made comfortable on 16.09.2012, she disclosed the name of the person as "Satya". Thereafter, the parents given the full name of Satya as Satish Ramesh Nandre i.e. present accused. This is how he was connected to the

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present offence. He came to be then arrested during the course of the investigation. Prior to that the investigating officer API Nimbhore had visited the spot and carried out spot panchanama. Clothes of the victim were produced by the grandfather at the house and those clothes were seized by drawing panchanama. After the arrest of the accused, he was sent for the medical examination. It was then revealed that the victim is a member of Scheduled Tribe i.e. from Bhil community and the accused was not a member of either Scheduled Caste or Scheduled Tribe. Therefore, the offence punishable under Section 3(1)(xii) of the Atrocities Act came to be added and further investigation has been carried out by the police officer of the rank of Sub Divisional Police Officer. The school leaving certificate of the accused and caste certificate of the informant was collected. Seized clothes as well as samples were sent for chemical analysis and after completion of the investigation, charge-sheet came to be filed.

4. After framing of the charge, the trial was conducted when the accused pleaded not guilty. The prosecution has examined in all 13 witnesses to bring home the guilt of the accused. Taking into consideration the said evidence on record; as aforesaid, the accused has been held guilty of committing both the offences as per the charge.

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5. Heard learned Advocate Mr. P. P. Dawalkar for the appellant (Appointed), learned APP Mrs. V. S. Choudhary for respondent No.1 - State and learned Advocate Ms. Renuka B. Ghule for respondent No.2.

6. It has been vehemently submitted on behalf of the appellant - original accused that the learned Trial Judge has not appreciated the evidence properly. P.W.1 Bhalchandra Pawar is the panch to the spot panchanama, however, it can be seen that the samples of the mud were not shown to him and in fact, the samples were not properly collected. P.W.2 Dr. Surendra Sonawane is the medical officer to whom the injured victim was taken immediately after the incident. He has stated that he has not personally examined the girl, but the testimony of P.W.7 - the mother of the victim shows that the medical officer P.W.2 Dr. Surendra Sonawane had given two injections to the victim and treatment was given by him. Therefore, this contradictory fact was not considered. P.W.3 is the panch witness to the seizure of the clothes of the girl, however, it can be seen from the cross-examination that the said seizure panchanama cannot be relied upon as the panch witness has admitted that he had no knowledge from where the father-in-law of the victim had taken out those clothes. P.W.4 Kiran Bhoge is the employee from the Tahsil office, who had drawn the map. Here, in this case, P.W.5 Bhalchandra Pagare is the

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Police Patil of the village and he says that around 9.00 p.m., the father-in-law of the informant i.e. grandfather of the victim and others were seen to be proceeding towards river and after making inquiry, he had also joined them. That means he relied on the hearsay statements. P.W.6 is the father of the victim, P.W.7 is the mother of the victim and P.W.10 herself is the victim. On the date of deposition, the victim has stated that her age was 8 years while she was deposing. She has given the account as per the FIR, however, the prosecution has failed to prove that there was no tutoring of the witness. It had come in her evidence that after she was allegedly ravished, three ladies came to the spot and then the accused had fled away. Identity of those three ladies have not been established. Neither their statement under Section 161 of the Code of Criminal Procedure was recorded, nor even the substantial evidence. When there was possibility of an eye witness, as stated by the informant, much weightage ought to have been given to the testimony of the mother and the victim.

7. It has been further submitted on behalf of the appellant that P.W.6 father and P.W.7 mother are stating almost same lines, rather the father was not available in the village at the relevant time. When he had returned, who had passed on the information to him etc., has not been told. It rather shows that whatever P.W.6 the father was

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saying was on the basis of information supplied by P.W.7 mother. The CA reports were never produced in the matter. Under such circumstance, the appellant ought to have been acquitted.

8. Learned APP and learned Advocate for respondent No.2 strongly supported the reasons given by the learned Trial Judge and submitted that it is one of the henious crime that has been committed by the appellant. The girl was merely six years old when she was ravished. She was knowing the accused by his nickname and it was supplied by her to the parents. The evidence led by the prosecution stands corroborated to the medical evidence also and, therefore, the punishment awarded by the learned Trial Judge was illegal and well reasoned. It requires no interference at all.

9. We would like to start our discussion with the testimony of the victim P.W.10 as she is the person against whom the offence has been committed. As she was found a child witness, the learned Special Judge has asked certain questions to her to know whether she understands the questions and whether she would be the competent witness as contemplated under Section 118 of the Indian Evidence Act and after considering the answers given to those questions, there is a remark by the learned Special Judge that it has been observed that she understands the questions and knows about the sanctity of

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oath, however, taking into consideration her tender age, it has been stated that there is no necessity to administer oath to her and then her evidence has been recorded without administering oath. We would like to consider the legal position in respect of the same. In general parlance, we accept the testimonies if they are given under the solemn affirmation. However, it is very much clear that even if oath is not administered, yet if it is found that the witness is trustworthy/reliable, then the testimony can be accepted even without administration of oath.

10. The girl has firstly deposed about her family and then she has stated that on the day of incident, she was taking education in 1st standard. She was playing rope in the courtyard of her house at the evening time and then there was no electricity in the village. She says that she was taken away after gagging her mouth by Satya. She has stated that Satya had lifted her and took away her by keeping her on his shoulder. She has then stated that she was taken below the Paar (raised Ota) in congress grass. He had then removed her nicker, so also he has removed his nicker and then she has stated that she was raped. She had described the act of sexual intercourse with her own words. He has also then stated that he had given slaps to her and then she had stated that a motorcycle then came towards them and on seeing motorcycle, the accused ran away. She stood up from

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that place and slowly went to her house. She was weeping and she was in great pains. She then states that after returning home, she had become unconscious thereafter and regained consciousness in the hospital. She has identified Satya i.e. the accused before the Court and also stated that, as he used to wander in their vicinity after consuming liquor she knows her. In her testimony, it was firstly tried to be extracted from her as to who is her friend, her school background, what games she used to play etc. She has stated that in her school, she used to play *Kabaddi, Khokho, Jhoka* (Swing), hide and seek etc. It was tried to be extracted as to whether she used to play Doctor-Doctor with boys. She denied the same and then told that she used to play *Ghar Ghar* (Home) with utensils and she used to act as mother of her friend and in categorical terms she has stated that nobody used to act as father in that game. Thus, it can be seen that the attempt to extract and shift the burden of the act on somebody else did not materialize. Further, in her cross-examination, she has stated that she is unable to understand the year, but the incident had taken place about two years ago. On the day of incident also, she had attended the school and returned home along with her friend. She reiterated that the mother was in the house, but father was not, but her grandparents were in the house. She had stated that after completing study, she went to play. She was playing alone, but it was

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night time. There is one electric pole having electric bulb in their lane. She has then stated that the light was on and in the focus of the said bulb people who are able to identify one another. After inquiry, she has stated that nobody was around her house at the relevant time. She has stated that she had not seen the person when she was lifted and the said person had taken her from the other land where there were no persons. Further, it has been extracted that the persons in the vicinity used to go in the open space to answer the natures call. At that time, some ladies were answering the natures call there and according to her, three ladies were answering natures call at a distance of about 20 to 25 feet from the place where she was ravished. This is the fact which the learned Advocate for the appellant wants to harp upon and submitted that those ladies have not been identified and examined by the prosecution. They could have resisted the accused from doing such heinous crime. In her statement under Section 161 as well as 164 of the Code of Criminal Procedure, she had stated about the presence of those ladies. At the outset, it can be said that those ladies would definitely be the important witnesses, however, the girl was not knowing them. Under such circumstance, unless the identity of those ladies would have been established, they could not have been inquired by the police officer and could not have been examined as witness in the

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case. This does not given any advantage to the accused. The fact remains is that those ladies were at a distance from the place where the alleged sexual act was done by the accused. Further questions have not been asked as to whether whatever was done by the accused to the girl was visible to those ladies. No doubt, it is stated by her that she had seen those ladies, but that does not mean that those three ladies were able to see the act which the accused was doing with the girl. Under such circumstance, those admissions could not be used in favour of the accused.

11. In the cross-examination of the victim it has further came that when it was asked to her that police had told her to take name of Satya, she has taken the name, but the learned Trial Judge has rightly intervened and put the questions to make her understand the question that was put by the defence lawyer. The purpose of the cross-examination is not just to extract admissions by putting the witness in confusion or by asking some misleading questions. The purpose of the cross-examination is to give an opportunity to the defence for ascertaining the truth. In fact, it is the duty of the prosecution, defence as well as the Court to ascertain the truth from any witness including the child witness and it is the duty of the Court to see that the witness understands the question. When such misleading questions are asked or sometimes a pressure tactic is also

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used on the witness, the Presiding Officer of the Trial is supposed to intervene. The purpose of Section 165 of the Indian Evidence Act which provides for the power of the judges to put questions or order production is to safeguard the interest of justice. We may consider the observations by the Hon'ble Supreme Court in ***Ram Chander Vs. State of Haryana, [1981 Cri. L.J. 609],*** wherein it has been observed that :-

> " The adversary system of trial being what it is, there is an unfortunate tendency for a judge presiding over a trial to assume the role of a referee or an umpire and to allow the trial to develop into a contest between the prosecution and the defence with the inevitable distortions flowing from combative and competitive element entering the trial procedure. If a criminal court is to be an effective instrument in dispensing justice, the presiding judge must cease to be a spectator and a mere recording machine. He must become a participant in the trial by evincing intelligent active interest by putting questions to witnesses in order to ascertain the truth."

12. Further, in ***State of Rajasthan Vs. Ani @ Hanif and Others, [AIR 1997 SC 1023],*** the Hon'ble Apex Court explained the wide powers of the Trial Court under Section 165 of the Indian Evidence Act, which reads thus :-

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"11. We are unable to appreciate the above criticism. Section 165 of the Evidence Act confers vast and unrestricted powers on the trial Court to put "any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant" in order to discover relevant facts. The said section was framed by lavishly studding it with the word "any" which could only have been inspired by the legislative intent to confer unbridled power on the trial Court to use the power whenever he deems it necessary to elicit truth. Even if any such question crosses into irrelevancy the same would not transgress beyond the contours of powers of the Court. This is clear from the words "relevant or irrelevant" in Section 165. Neither of the parties has any right to raise objection to any such question.

12. Reticence may be good in many circumstances, but a judge remaining mute during trial is not an ideal situation. A taciturn Judge may be the model caricatured in public mind. But there is nothing wrong in his becoming active or dynamic during trial so that criminal justice being the end could be achieved. Criminal trial should not turn out to be about or combat between two rival sides with the judge performing the role only of a spectator or even an umpire to pronounce finally who won the race. A judge is expected to actively participate in the trial, elicit necessary materials from witnesses at

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> the appropriate context which he feels necessary for reaching the correct conclusion. There is nothing which inhibits his power to put questions to the witnesses, either during chief examination or cross-examination or even during re-examination to elicit truth. The corrollary of it is that if a judge felt that a witness has committed an error or a slip it is the duty of the judge to ascertain whether it was so, for, to err is human and the chances of erring may accelerate under stress of nervousness during cross-examination. Criminal justice is not to be founded on erroneous answers spelled out by witnesses during evidence collecting process. It is a useful exercise for trial judge to remain active and alert so that errors can be minimised."

13. In ***Zahira Habibullah Sheikh and another Vs. State of Gujarat and Others, [AIR 2004 SC 346],*** the Hon'ble Apex Court reiterated the principle that the Courts should not be the mute spectators. What has been observed in this case is that when the question was put by the learned Advocate for the defence, the girl appears to have not understood the same and it may be because of the complex question that would have been put to the girl who was at that time eight years old, but when the Court had split the question, then she has given the answer. Therefore, the alleged admission cannot be considered the way accused wants to interpret

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it. Even if for the sake of argument, we accept that she told the name of the accused as Satya on the say of police; the accused in his statement under Section 313 of the Code of Criminal Procedure or even in the cross-examination of the investigating officer, has not explained as to what grudge the police have against him. What was that reason for the police to implicate him in such a crime. If that reason is not coming forward, it cannot be appreciated that the police would have told the name of the accused to the girl and told her that she should take the name of the accused. In her cross-examination, it has not been put to her that her parents had tutored her to take the name of the accused. Thus, the fact remains is that she has given the details as to how the incident had taken place and who has done the act. She was six years old at the time of incident and therefore, might be knowing accused because people used to call accused as Satya, she had disclosed that name to the parents. The next question is that she had not immediately disclosed the name of the accused to the mother or even to the police. Her statement has been recorded after about four days, but then she has stated that she had become unconscious and was not in a position to give the statement. This fact is not confronted with the medical officer or the parents of the victim. Her statement under Section 164 of the Code of Criminal Procedure has been recorded by the learned Magistrate and

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in that statement, she has disclosed the name of the accused. In her cross-examination, she has clearly stated that she had not disclosed the name of the accused to the mother on the same date. We can understand the situation of the girl. She was only six years old at that time. She was ravished by the side of a river and there is no contrary fact coming on record to state that from the bank of the river till her house, she had come alone by holding her nicker in her hand. The distance between the place of offence and the house of the informant has not been stated. It was not extracted from the girl from which road she had come and whether she had met any person. No doubt, as regards while taking her by the accused whether anybody has seen her has been tried to be extracted but not about her journey from the place of incident to her house. She had stated that she was in severe pains. It would have been appropriate for the mother to ask about the name of the culprit at that time when the fact was narrated by the girl to her, but the mother's priority at that point of time was different. Therefore, no fault can be found about the late disclosure of the name of the accused by the girl herself. We, therefore, hold that though the testimony of P.W.10 victim was without administering oath to her, yet it is trustworthy and reliable.

14. At this stage, we would like to take note of the medical evidence. P.W.8 Dr. Tushar Raghuwanshi is the medical officer who

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had examined the victim. He has stated that the history was given by the mother and the patient herself, who was six years old. He had found two injuries on the person of the victim and also the dried blood stains were present on medial aspect of both thighs. The first injury was the posterior vaginal wall tear in the center approximately 1 x 1.5 cm and the second was central parineal tear from forchette towards anus approximately 2 cm. x 1.5 cm. x 1 cm. The margins of both wounds are fresh within 24 hours. He has given the diagram of those injuries in MLC and particular these injuries together with the history. He opined that those injuries were recent and of penetrating type of injuries and, therefore, he issued certificate Exhibit-30. In the cross-examination, he has admitted that he had not taken medical tests of the victim. He also admitted that both the injuries are possible due to insertion of hard object in the vagina. He also admitted that no foreign object like hair were found on the person of the injured. However, it can be seen that the corresponding suggestion was not given to the victim about the insertion of any hard object in the vagina by her. She is six years old. Why she should insert anything. The suggestions cannot be for the sake of suggestions or as fishing questions. Those admissions given by the medical officer in the cross cannot be considered the way accused want, because they lack corresponding suggestions to the

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victim. The victim rather has denied that she was playing bicycle or any such game at the relevant time. Rather the medical officer in his cross-examination denied that the first injury found on the person of the victim is possible because of the injury to the private part during bicycling or slip of legs. Therefore, certainly the medical evidence supports the testimony of P.W.10 victim.

15. P.W.7 is the mother of the victim and she has also corroborated the daughter. The mother was working in the house and the girl was playing alone in the courtyard. When the girl returned, she was holding nicker in her hand and there was bleeding from her private part. She has also stated that when she asked about the incident, the girl narrated it, but it was without the disclosure of the name of the person who did the act. Definitely, her FIR Exhibit-23 is against the unknown person. She has then stated that the daughter has thereafter disclosed the name of accused as "Satya" to the police officer, as she knew the accused as he is residing in the nearby house of her house. In her cross-examination, the topography has been taken. At the most, it can be said that there are houses around the house of the victim and people reside in those surrounding houses, however, we cannot presume that many persons would be out of their house or on the road at the relevant time and would find that the girl is being forcibly taken. The mother has stated about the

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electricity getting disconnected. No doubt, any certificate from the electricity department has not been produced to support the said contention. That does not presume that the electricity was on and anybody could have noticed taking away of the girl from her house. In the cross-examination, she has admitted that she cannot tell as to how many persons by name Satya are in the village Shenpur and Malanjan. The victim had not given the full name of the accused to her. Again at the cost of repetition we would say that it cannot be expected from a girl of six years that she would tell the full name of the other person, who is residing in the nearby area. She would know that person with the first or last name/surname or may identify that person by the name of the person's child/children i.e. father of a particular boy/girl. Giving full name of the accused by the mother from the said nickname therefore cannot be viewed from an angle of implication of the accused. Important point to be noted is that in the cross-examination, it is absolutely not suggested to her as to what was the reason for alleged implication of the accused. Even in his statement under Section 313 of the Code of Criminal procedure, the accused is not explaining as to what was the probable reason of his implication. The informant – mother as well as the victim are from Adiwasi Bhil Community and the accused is belonging from the Patil Community i.e. from the upper caste. It is not denied by the

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informant in the cross that accused is residing in the vicinity of the victim. No doubt in the FIR it is not stated by the informant that she belongs to Bhil Community, but when the accused had the knowledge about the caste as it can be presumed from the fact that he is residing in the nearby vicinity and he has not taken the defence that he was not aware about the caste/tribe of the informant, we hold that the offence under Section 3(2)(v) of the Atrocities Act is also proved.

16. P.W.6 is the father of the victim. He was admittedly not present even when the girl had come while crying and at the time of disclosing the incident to the mother. In the cross-examination of the father of the victim also, it has not been suggested as to what could be the probable reason for the implication of the accused.

17. We do not find much importance to the fact that P.W.2 Dr. Surendra Sonawane given admission that he had not personally examined the girl and the contrary statement made by the mother of the victim that he had given two injections to the victim, as it is to be noted that he was given the clear idea that the victim was a rape victim and according to him, therefore, he had told those persons to carry the victim to Government dispensary.

18. P.W.3 is the panch witness to the seizure of clothes of the victim. Her Kurta, Nicker and *Odhni* were seized. Merely because

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the grandfather of the victim was known to P.W.3 Sukdeo Pawar and P.W.3 Sukdeo Pawar had no knowledge from where the grandfather of the victim had brought the clothes, will not be of importance, unless ultimately the defence succeeds in showing that there was evidence of tampering of the samples. Here, no such suggestions have been put. P.W.5 is the Police Patil to whom the grandfather of the victim met and disclosed about the incident and thereafter they all proceeded to the place shown by the victim. He has also stated that there was no arrangement of electricity in the vicinity of Amar Dham i.e. the place near the spot. In the cross-examination he has admitted that he was not having personal knowledge that the girl has shown spot to the grandfather. He was not present when the victim had shown the spot panchanama to the grandfather. Even if his testimony is taken as it is, as not favouring the accused, yet it cannot be taken even against prosecution. Even if his testimony is discarded, no advantage can be given to the accused.

19. P.W.9 Mohan Rathod is the panch witness to the arrest panchanama of the accused and seizure of clothes. He has turned hostile. P.W.11 Vandana Nikumbh is the Police Naik, who was present at the time of recording of the statement of the victim. P.W.13 API Nimbhore had recorded that statement. It can be seen that the mandatory provisions appear to have been complied with.

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P.W.11 Vandana has stated all those things which were told by the victim to API Nimbhore in her presence. P.W.13 API Nimbhore supports P.W.11. P.W.12 Ratan Rathod is the panch to the memorandum panchanama. It is the prosecution story that accused gave memorandum and discovered the clothes which were allegedly on his person on the day of incident. The contents about the said panchanama are also told by P.W.13 API Nimbhore. Even if we hold that the said evidence is not admissible, yet the substantial evidence remains.

20. Therefore, re-assessment of evidence by the Appellate Court within its powers would now show that the victim i.e. six years old girl was raped by the accused and the victim was member of Scheduled Tribe. Therefore, the appreciation of the evidence by the learned Trial Judge, so also the conclusion that has been drawn that the accused is convicted for the offence punishable under Sections 376(2)(f) of the Indian Penal Code and under Section 3(2)(xii) of the Atrocities Act, was proper.

21. Now as regards the quantum of sentence is concerned, it is to be noted that the prosecution had proved that the accused committed rape on a minor girl of six years of age. It appears in the judgment that the learned Trial Judge has wrongly stated the Section as 376(2)

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(f) of Indian Penal Code. Section 376(2)(f) punishes an accused, who commits rape being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman. Here, the prosecution had not come with a case that accused was not in a position of trust/authority, because the other categories are absolutely no attracted. But certainly the offence would be under Section 376(1) of Indian Penal Code. If we consider the charge, it was for the offence punishable under Section 376 of Indian Penal Code and the punishment that was provided was "shall not be less than seven years, but which may extend to imprisonment for life and shall also be liable to fine". The amendment to the said Section is with effect from 21.04.2018 and in this case, the offence had taken place on 12.09.2012. Therefore, the amendment was not applicable. The accused has committed one of the heinous crime. The life of a small child aged 6 has been ruined. The rape on a victim leaves a scar throughout the life and, therefore, there is no question of showing leniency to such accused person.

22. We do not find any merit in the present appeal. It deserves to be dismissed. It will not be out of place to mention here that earlier another Advocate was appointed by this Court by order dated 08.12.2020, but thereafter it was found that he was remaining absent and even the appellant by letter dated 05.11.2021 had placed his

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anguish that his appeal is not being heard. Under such circumstance, the another Advocate i.e. present Advocate came to be appointed by order dated 02.01.2023 to represent the cause of appellant. Further, the learned Trial Judge has granted compensation from the fine amount to the victim so also when it was found that the compensation that would be paid as such would be less, the case of the victim was referred to the District Legal Services Authority, Dhule for grant of adequate compensation to the victim. We do not find any illegality or error in the said order also.

23. For the aforesaid reasons, following order is passed :-

ORDER

I) The appeal stands dismissed.

II) Fees of learned Advocate, who is appointed for the appellant, is quantified at Rs.10,000/- to be paid by High Court Legal Services Sub Committee, Aurangabad.

[Y. G. KHOBRAGADE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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