



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

CRIMINAL APPEAL NO. 364 OF 2022

with

CRIMINAL APPEAL NO. 515 OF 2022

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CRIMINAL APPEAL NO. 364 OF 2022

APPELLANT

: Amit S/o Gopal Chavan,
Aged about 19 years, Occu. Labour,
R/o Khadaka, Tq. & Dist. Akola.

VERSUS

RESPONDENTS

: 1] State of Maharashtra,
through Police Station Officer,
Police Station, Borgaon Manju,
Tq. and Dist. Akola.

2] X Y Z, Victim, Crime No. 388/2020
P.S.O., P.S., Borgaon Manju,
Tq. and Dist. Akola.

with

CRIMINAL APPEAL NO. 515 OF 2022

APPELLANT

: Akash S/o Gajanan Rathod,
Aged about 19 years, Occu. Labour,
R/o Khadaka, Tq. & Dist. Akola.

VERSUS

RESPONDENTS

: 1] State of Maharashtra,
through Police Station Officer,
Police Station, Borgaon Manju,
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2] X Y Z, Victim, Crime No. 388/2020
P.S.O., P.S., Borgaon Manju,
Tq. and Dist. Akola.

Cri. Appeal No. 364/2022

Mr. Jasprit Singh Chilotra, Advocate for the appellant

Mr. C. A. Lokhande, A. P. P. for the respondent no.1/State

Mrs. Sonali Saware-Gadhwe, Advocate appointed for resp. No.2

Cri. Appeal No. 515/2022

Ms. Neerja Chaubey, Advocate appointed for the appellant

Mr. C. A. Lokhande, A. P. P. for the respondent no.1/State

Ms. S. H. Bhatia, Advocate appointed for Resp. No.2 victim

CORAM : G. A. SANAP, J.

DATED : DECEMBER 05, 2024.

ORAL JUDGMENT

1. These two appeals arise out of the judgment and order dated 03.06.2022, passed by the learned Extra Joint District Judge and Additional Sessions Judge, Akola, in Sessions Trial No. 113/2020 whereby the learned Judge convicted the appellants/accused nos.1 and 2 for the offences punishable under Sections 354, 354-A, 354-D, 452 r/w Section 34 and U/s 506(I) of the Indian Penal Code and under Section 7 punishable under Sec.8 and offence under Sec. 11 punishable under Section 12 of the Protection of the Children from Sexual Offences Act, 2012 (hereinafter referred to as "the POCSO Act" for short). Both the appellants/accused are sentenced as follows :

a] Rigorous imprisonment for five years and to pay fine of Rs.5,000/- and in default to suffer SI for three months for the offence

punishable under Section 354 of the IPC.

b] Rigorous imprisonment for three years and to pay fine of Rs.5,000/- and in default to suffer SI for three months for the offence punishable under Section 354-A of the IPC.

c] Rigorous imprisonment for three years and to pay fine of Rs.5,000/- and in default to suffer SI for three months for the offence punishable under Section 354-D of the IPC.

d] Rigorous imprisonment for Seven years and to pay fine of Rs.10,000/- and in default to suffer SI for six months for the offence punishable under Section 452 read with Section 34 of the IPC.

e] Rigorous imprisonment for two years and to pay fine of Rs.5,000/- and in default to suffer SI for three months for the offence punishable under Section 506(I) of the IPC.

f] Rigorous imprisonment for five years and to pay fine of Rs.10,000/- and in default to suffer SI for six months for the offence under Section 7 punishable under Section 8 of the POCSO Act.

g] Rigorous imprisonment for three years and to pay fine of Rs.5,000/- and in default to suffer SI for three months for the offence under Section 11 punishable under Section 12 of the POCSO Act.

2. The appellant in Criminal Appeal No. 364/2022 is accused no.2 and the appellant in Criminal Appeal No. 515/2022 is accused no.1. In this judgment, they would be referred as accused no.1 and accused no.2.

3. BACKGROUND FACTS :-

The informant is the mother of the victim girl. The victim girl, on the date of the incident was about 14 years of age. The prosecution case, which can be unfolded from the report and other materials is that the informant with her two daughters is residing at village Khadka, Tah. and Dist. Akola. Accused nos.1 and 2 are the residents of village Khadka. They are residing in the same locality. In the year 2020, the victim was studying in 7th Standard at Chindhaji Maharaj Vidyalaya, Kaulkhed Jahangir. Accused nos. 1 and 2 are friends. It is stated that in the month of January, the victim girl informed her mother that when she had been to the river to fetch water, both the accused followed her. Thereafter, one day, accused no.1 told her that he likes her and wants to marry with her. The victim girl told him that he is like her brother and he should behave like a brother. On being informed about this incident by the victim, the mother went to

the parents of accused nos.1 and 2 and requested them to give an understanding to their sons.

4. It is further the case of the prosecution that on 26.08.2020, the informant had gone to Akola for purchasing the clothes for the victim. The birthday of the victim was on 28.08.2020. When the informant returned from Akola, the victim girl narrated the incident occurred with her in the noon. As per the case of the prosecution, at about 12.30 p.m., both the accused came in front of the house of the informant. Accused no.1 pushed the door of the house and entered into the house. Accused no.1 gagged the mouth of the victim and pressed her breasts. The victim raised shouts. Her sister, who was in another room of the house, came out of the room. The accused ran away from the spot. Accused no.1 threatened her with dire consequences in case she disclosed the incident to anybody. The victim narrated this incident to her mother. The mother of the victim went to the house of accused no.1 and narrated the incident to his parents. The informant requested them to give an understanding to their son. The parents of accused no.1 expressed their helplessness and told the informant to take an appropriate action. The informant was under

tremendous stress on account of this incident. They were frightened and therefore, they did not go to the police station till 04.09.2020. On 04.09.2020, the victim and the informant went to Borgaon Manju police station and lodged the report (Exh.14).

5. On the basis of the report (Exh..14), a crime bearing No. 388/2020 was registered against the appellants. The investigation was carried out by PW6 PSI Vina Pande. The victim was referred for medical examination. The statement of the victim was recorded by the Child Welfare Committee (CWC). Similarly, the victim and the informant were sent for recording their statement under Section 164 of the Cr.P.C. The Investigating Officer arrested the appellant. The Investigating Officer recorded the statements of the witnesses. She collected the documents with regard to the birth date of the victim. On completion of the investigation, the Investigating Officer filed the charge-sheet in the Court of law.

6. Learned Judge framed the charge (Exh. 3) against the accused. The appellants/accused abjured their guilt. Their defence is of false implication. The informant was doing illegal money lending

business. She has been boycotted by the villagers and therefore, to take revenge, a false case was filed against them. The prosecution, in order to bring home the guilt of the appellants, examined six witnesses. The appellants/accused examined two defence witnesses. Learned Judge on consideration of the evidence, held the appellants/accused guilty and sentenced them as above. The appellants/accused by way of these two appeals are before this Court.

7. I have heard Ms. Neerja Chaubey, learned advocate appointed to represent the appellant/accused no.1 in Criminal Appeal No. 515/2022 and Mr. Jasprit Singh Chilotra, learned advocate for appellant/accused no.2 in Criminal Appeal No. 364/2022, Mr. C.A. Lokhande, learned Additional Public Prosecutor for respondent no.1/State, Mrs. Sonali Saware-Gadhwe and Ms. S. H. Bhatia, learned advocates appointed for respondent no.2-Victim. Perused the record and proceedings.

8. Learned advocate for accused no.1 submitted that as far as the allegations of stalking are concerned, there is no evidence at all. The evidence of the victim would show that there was a solitary incident in

the month of January, when the accused followed her at the river. Learned advocate further submitted that there is no evidence to prove the offence of house trespass with an intention to commit an offence. Learned advocate submitted that there is no evidence to prove that the accused persons made gestures or sexually coloured remarks constituting an offence of sexual harassment. Learned advocate submitted that the evidence of the informant and the evidence of the victim does not inspire confidence. There are major inconsistencies in their evidence as to the actual occurrence of the incident. Learned advocate pointed out that in the statement of the victim recorded before the CWC, she did not state that accused no.1 pressed her breasts. Learned advocate submitted that the victim improved her statement. Learned advocate submitted that the learned Judge has failed to properly appreciate the evidence and has come to a wrong conclusion. Learned advocate further submitted that the evidence adduced by the prosecution to prove the birth date of the victim is not legally admissible and as such sufficient to prove the birth date of the victim. Learned advocate submitted that the report of the incident allegedly occurred on 26.08.2020, was lodged on 04.09.2020. In the submission of the learned advocate, the delay has not been explained satisfactorily.

Learned advocate submitted that the delay in lodging the report is sufficient to conclude that it was an afterthought and embellished.

9. Learned advocate for accused no.2 submitted that no specific role has been attributed to accused no.2. Learned advocate took me through the evidence and pointed out that no offence has been made out against accused no.2 on the basis of the evidence. In the submission of learned advocate, accused no.2 has been falsely implicated due to his friendship with accused no.1. Learned advocate submitted that accused no.2 could not be said to be an abettor to the crime committed by accused no.1. Learned advocate for accused no.2 has adopted the remaining submissions advanced by learned advocate for accused no.1.

10. Learned Additional Public Prosecutor and learned advocates appointed to represent the victim in both the appeals submitted that the evidence of the victim (PW2) and the evidence of her mother (PW1) is cogent, concrete and reliable. The prosecution on the basis of this evidence has proved the charge against the appellant. The delay is satisfactorily explained. It is pointed out that the

informant and her two daughters had no support from the villagers. They were residing together. The husband of the informant was residing separately since long. The accused persons had caused all sorts of trouble to the victim. The accused persons threatened the victim of dire consequences, in case the matter was reported to the police. The victim and the informant were under tremendous pressure and therefore, they could not lodge the report. It is submitted that when the things went beyond tolerance and the trouble to the victim passed the intolerable level, the matter was reported to the police. It is submitted that the prosecution by adducing cogent and reliable oral and documentary evidence, has proved that the victim was born on 28.08.2007. In short, the learned APP and the learned advocates appointed to represent the victim, supported the judgment and order passed by the learned Judge.

11. The victim (PW2) has stated that on the date of the incident, she was studying in 7th standard. She has deposed that her birth date is 28.08.2007. The informant (PW1), who is the mother of the victim, has deposed that the birth date of the victim is 28.08.2007. Perusal of the cross-examination of the informant and the victim,

conducted on behalf of the accused, would show that they have not seriously challenged the birth date of the victim. The prosecution examined PW5, the Head Mistress of Zilla Parishad Primary School, Khadka. It needs to be stated at this stage that during the course of investigation, the Investigating Officer (PW6) had collected the certified copies of the admission register from the school. PW5 as per the Court summons produced the original admission register and the affidavit register, maintained with the school. She has deposed that at serial No. 352 of the affidavit register, the name of the victim was entered in the school. She has stated that the mother of the victim had provided her birth date on affidavit. The certified extract of the affidavit register is at Exh.26. The certified extract of the admission register entry is at Exh.27. It shows that the victim was admitted in 1st standard at Zilla Parishad Primary School, Khadka. The relevant admission entry of the victim is at Sr. No. 510 of the admission register Exh.27. PW5 has stated that in both the documents (Exh.26 and 27), the birth date of the victim is recorded as 28.08.2007.

12. PW5 was subjected to cross-examination. It is to be noted that Exh.26 is the certificate extract of the affidavit register and Exh.27

is the certified extract of the relevant entry from the admission register. It is apparent that the learned Judge, while admitting these documents, has committed a procedural error. Learned Judge ought to have exhibited the affidavit from the affidavit register. Similarly, the original entry from the register ought to have been exhibited. The original document, after exhibiting the relevant entry, ought to have been returned to the witness on furnishing usual undertaking. It is to be noted that such procedural lapse could have been easily avoided. The purpose of summoning a witness with original record was to prove the relevant facts on the basis of the original record. Be that as it may, this procedural irregularity may not diminish the admissibility of Exhs.26 and 27. These are the certified extracts from the original registers.

13. Perusal of the cross-examination of PW5 would show that at the time of admission of the victim, in the school, the birth certificate was not produced. PW5 has admitted that while taking admission in the school, the birth certificate is necessary. In this case, this admission given by the Headmistress is of no significance and it can not demolish the principal fact with regard to the birth date of the victim. It is to be noted that during the course of the investigation, the Investigating

Officer had forwarded a requisition letter to the Secretary of Gram Panchayat, Khadka. The Secretary informed the Investigating Officer that the birth of the victim was not registered at Gram Panchayat, Khadka. It needs to be stated that the birth certificate can be produced while taking admission, provided the birth of a child is registered. In case of the victim, her birth was not registered at Gram Panchayat and therefore, at the time of her admission in the school, her mother submitted an affidavit and on affidavit stated the birth date of the victim. There is no cross-examination of the informant on this aspect. The victim has a younger sister. The victim, on the date of the incident, was studying in 7th standard. The record shows that the victim was admitted in 1st standard on 26.06.2013. A rough calculation of her age would show that on the date of her admission, she was around 6½ years old. The mother is the proper person to depose about the birth and birth date of the child. The mother may sometimes miss the exact birth date. However, it is not possible in such a case to miss or forget the year of birth. The victim on the date of the crime was 14 years of age. In my view, therefore, the prosecution has proved that the victim was about 14 years of age on the date of lodging the report and as such a “*child*” as understood by Section 2(1)(d) of the POCSO Act.

14. In the above backdrop, it is necessary to appreciate the evidence adduced by the prosecution. It is undisputed that there was delay in lodging the report. The incident had occurred on 26.08.2020. The report was lodged on 04.09.2020. The informant in her report has stated that after this incident, they were under tremendous pressure and stress. Accused no.1 had extended threat of dire consequences in case the matter was reported to the police. The conduct of the informant is consistent with this explanation. It has come on record that accused no.1 was after the victim girl. In the month of January, 2020, he had followed the victim when she went to fetch water from the river. Accused no.2 was also with him. The informant (PW1) has stated that when the victim told her about the harassment meted out to her by the accused, she went to their parents and requested them to give an understanding to their sons. She has stated that the parents of the accused gave an understanding to them. It has come on record that accused no.1 was hellbent to marry the victim girl. It has come on record that accused no.1 told the victim girl that he loves her and wants to marry with her. It has come on record that the victim girl told accused no.1 that he is like her brother and he should behave like a brother. There was no improvement in the behaviour of accused no.1.

Ultimately, the unfortunate incident dated 26.08.2020 occurred. The mother was not present at the house on that day. The victim and her younger sister were inside the house. Accused No.1 came there and committed the act. These facts have been categorically stated by the victim as well as by the informant. It has come on record in the evidence of the victim (PW2) as well as the informant (PW1) that even after this incident, she tried to give an understanding to the accused through their parents. PW1 has stated that after this incident she went to the parents of accused no.1 and told them about the incident and requested them to give an understanding to accused no.1. She has stated that the parents of accused no.1 expressed helplessness. They told the informant that she should take appropriate steps in the matter and deal with the accused persons at her level. This shows that accused no.1 was not under the control of his parents. Accused no.1 consistently harassed the victim. The victim was not responding to the request of accused no.1 to marry with him.

15. PW1 and PW2 have stated that after this incident, the accused threatened them that they would face serious consequences in case the matter is reported to the police. It is further apparent on the

face of the record that the statement of the victim was recorded before CWC (Exh.90). In the said statement, the victim has stated that after this incident, the accused threatened either to kill her mother or he would consume insecticide. The victim has stated that on 27.08.2020 in the evening, he consumed the insecticide and the matter was reported to the police. She has stated that on the next day, she went to the house of her maternal aunt and stayed there for 2-3 days. This fact shows that accused no.1 was desperate for the victim girl. He wanted to marry the victim girl, but the victim was not ready.

16. It is to be noted that accused no.2 is residing in front of the house of the victim. Accused no.1 used to come to the house of accused no.2 and from his house would make gestures at the victim. The father of the victim was residing separately on account of marital discord between him and her mother. The two daughters were residing with the mother. The mother was their protector. The mother was looking after the well being of the girls. The accused persons in that way were in dominating position. The informant and the victim, due to the past conduct of the appellant, would have reason to believe that in case the matter is reported to the police, they would not be safe. The conduct

of the mother in not reporting the matter to the police was consistent. The mother would obviously be concerned about the future of the daughters. The mother tried her level best to pacify the situation by giving an understanding to accused nos.1 and 2 through their parents. The informant was, therefore, aware of the capability and mind set of the accused persons. The informant and the victim were aware that accused no.1 was capable to translate the threat into action. In my view, therefore, the delay in lodging the FIR would not be a sole ground to discard and disbelieve the evidence of the victim and her mother. It is to be noted that the delay has to be properly explained. The delay *per se* cannot be a ground to discard the otherwise trustworthy and credible evidence. The delay becomes fatal if the evidence adduced by the prosecution is doubtful and shaky. If the evidence is sufficient to prove the charge against the accused, then on the ground of delay alone, the benefit cannot be given to the accused. In my view, therefore, the submissions advanced on this point by the learned advocates for the appellants/accused, cannot be accepted.

17. The next important aspect that needs consideration is as to the role attributed to accused nos.1 and 2 and the offences proved

against them by the prosecution. I have minutely perused the evidence. On perusal of the evidence, I am satisfied that as far as accused no.2 is concerned, the evidence on record is not sufficient to prove the charge against him. Perusal of the evidence of the victim girl would show that no specific role has been attributed to accused no.2. Accused no.2 is the friend of accused no.1. The basic allegation of outraging the modesty of the victim girl has been made against accused no.1. It has come on record that when accused no.1 committed the offence inside the house of the victim, accused no.2 was standing outside. The victim girl has not attributed any role at that time to accused no.2. Similarly, no specific allegation has been made with regard to the stalking against accused no.2. It is seen that the accused no.2 was roped in because he is the friend of accused no.1. Perusal of the evidence would show that it is not sufficient to prove the charge against accused no.2.

18. Perusal of the evidence would show that it is not sufficient to prove the offence of stalking against accused no.1 as well. Section 354-D of the IPC and Section 11 r/w Sec.12 of the POCSO Act provide the punishment for the offence of stalking. It is to be noted that in order to attract the offence of stalking, the prosecution must prove that

the accused repeatedly or constantly followed, watched or contacted a child either directly or through electronic, digital media. In view of this mandatory requirement of the offence of stalking, a solitary instance of following the victim would not be sufficient to make out this offence.

19. The victim has narrated the incident dated 26.08.2020 in great detail in her evidence before the Court, in her Section 164 Cr.P.C. statement before the learned Magistrate and in her statement recorded before the CWC. The victim has stated that on 26th, her mother had gone to Akola. Her younger sister was in another room. She has stated that at that time, the accused came in front of her house. She heard knocking on the door. She has stated that as soon as she opened the door, accused no.1 pushed the door and entered the house. She has categorically stated that accused no.1 gagged her mouth. Accused Akash (A1) pressed her breasts. She has stated that she raised the shouts. Accused no.1 threatened her with dire consequences in case the incident was reported to anybody. She has stated that her younger sister on hearing shouts came to her. The accused ran away from the spot. As far as accused no.2 is concerned, no role has been attributed to him. It is stated that he was standing outside the house of the victim. As far as

occurrence of this incident is concerned, PW4, the younger sister of the victim, has corroborated the evidence of the victim. PW4 has stated that on that day, her mother had gone to Akola. She and her sister (victim) were present in the house. She has stated that she heard the knocking on the door. Her sister went to open the door. She has stated that she heard the shouts of her sister. Thereafter, she went there. She has stated that she saw that both the accused were running. She has stated that thereafter, the victim narrated the entire incident to her. She has deposed about it.

20. On perusal of the evidence of the victim (PW2) and her sister (PW4), I am satisfied that this evidence inspires confidence. I have no reason to discard and disbelieve their evidence. Both the sisters have been subjected to searching and grueling cross-examination. Perusal of their cross-examination would show that no material has been elicited in their cross-examination to doubt their credibility and trustworthiness. I have no reason to discard and disbelieve their evidence. On the basis of this evidence, the offence under Section 354-A of the IPC and under Section 7 r/w Section 8 of the POCSO Act has been made out. In my view, therefore, the conviction for these

offences does not warrant interference. Similarly, the offence proved against accused no.1 is house trespass after preparation for committing an offence, which is punishable under Section 451 and not under Section 452 of the IPC. On going through the record, I am satisfied that the offence made out against accused no.1 would be under Section 451 and not under Section 452 of the IPC. The conviction for other offences namely, 354, 354-D, 452 r/w Section 34 and 506(I) of the IPC and under Section 11 punishable under Section 12 of the POCSO Act, cannot be sustained. It is further pertinent to note that as far as the incident of outraging the modesty of the victim girl is concerned, accused no.2 cannot be held guilty. He did not play any role in it. The offences are proved against accused no.1 only. The accused no.2 deserves to be acquitted of all the offences.

21. The next issue is with regard to the quantum of the sentence. Ms. Chaubey, learned advocate submitted that accused no.1 has been in jail for two years, six months and eleven days. He is unmarried. His parents are old. The offence proved against accused no.1 is sexual assault, punishable under Section 354-A of the IPC and Section 7 of the POCSO Act. It is submitted that, therefore, the

imprisonment suffered by the accused no.1 would be the sufficient sentence. It is submitted that it would be proportionate to the gravity of the crime proved against accused no.1.

22. Learned APP submitted that the substantive sentence awarded by the learned Judge on all the counts is proportionate to the gravity of the crime. It is submitted that accused no.1 even after his release would be a threat to the victim and her family. Learned advocates appointed to represent the victim submit that accused no.1 does not deserve sympathy.

23. I have given thoughtful consideration to the submissions. Keeping in mind the facts and circumstances pointed out by the learned advocate for accused no.1, it would be just and proper to accept her submissions. Accused no.1 has undergone the sentence of two years, six months and eleven days. The maximum sentence provided under Section 354-A of the IPC and under Section 8 of the POCSO Act, is imprisonment which may extend to five years and fine. Learned Judge has awarded the sentence of fine on all counts in addition to the substantive sentence. It is apparent that the sentence of fine on all

counts would be on higher side. In view of the above, the sentence of fine needs to be modified. The sentence in this case will have to be awarded for the offence punishable under Section 8 of the POCSO Act. No separate sentence is required to be awarded for the offence punishable under Section 354-A of the IPC.

24. As far as the offences punishable under Section 451 of the IPC and under Section 8 of the POCSO Act are concerned, the sentence already undergone by accused no.1 would be the sufficient sentence. As far as the sentence of fine is concerned, on all counts, accused no.1 shall pay fine of Rs.5,000/- (Rupees Five thousand only) and in default of payment of fine, suffer simple imprisonment for two months.

25. Before parting with the matter, it is necessary to acknowledge the able assistance rendered by Ms. Neerja Chaubey, learned advocate appointed to represent the appellant, Ms. S. H. Bhatia learned advocate appointed to represent respondent no.2/victim in Criminal Appeal No.515/2022 and Mrs. Sonali Saware-Gadhwe, learned advocate appointed to represent respondent no.2/victim in

Criminal Appeal No.364/2022. The valuable assistance rendered to this Court by them is appreciated.

26. Accordingly, I pass the following order :

(i) The judgment and order of conviction and sentence passed against the appellants by learned Extra Joint District Judge and Additional Sessions Judge, Akola dated 03.06.2022 in Sessions Trial No. 113/2020, is modified.

(ii) **Criminal Appeal No. 364/2022** filed by appellant/accused no.2 - Amit S/o Gopal Chavan is **allowed**.

(iii). Appellant/accused no.2 – Amit S/o Gopal Chavan (in Appeal No. 364/2022) is **acquitted** of the offences punishable under Sections 354, 354-A, 354-D, 452 r/w Section 34 and U/s 506(I) of the IPC and u/s 7 punishable U/s 8 and u/s 11 punishable u/s 12 of the Protection of Children from Sexual Offences Act, 2012.

(iv) **Criminal Appeal No. 515/2022**, filed by the appellant/accused no.1 - Akash S/o Gajanan Rathod, is **partly allowed**.

(v). Appellant/accused no.1 – Akash S/o Gajanan Rathod (in Appeal No. 515/2022) is acquitted of the offences punishable under Sections 354, 354-D, 452 and 506(I) of the IPC and under Section 11

punishable u/s 12 of the POCSO Act.

(vi). The conviction of the appellant/ accused no.1 – Akash S/o Gajanan Rathod (in Appeal No. 515/2022) for the offences punishable under Sections 354-A of the IPC and under Sec. 7 punishable u/s 8 of the POCSO Act, is maintained.

(vi). In addition, appellant/accused no.1 – Akash S/o Gajanan Rathod (in Appeal No. 515/2022) is convicted for the offence punishable under Section 451 of the IPC.

(viii). Appellant/accused no.1 – Akash S/o Gajanan Rathod (in Appeal No. 515/2022) is sentenced to suffer the imprisonment already undergone by him till date for the offence punishable u/s 451 of the IPC and u/s 8 of the POCSO Act. No separate sentence is awarded for the offence punishable under Section 354-A of the IPC.

(ix). Appellant/accused no.1 – Akash S/o Gajanan Rathod (in Appeal No. 515/2022) is sentenced to pay fine of Rs.5,000/- (Rupees Five thousand only) on all counts, and in default to suffer simple imprisonment for two months.

27. Ms. Neerja Chaubey, learned advocate appointed to represent the appellant in Criminal Appeal No. 515/2022 and Mrs.

Sonali Saware-Gadhwe and Ms. S.H. Bhatia, learned advocates appointed to represent respondent no.2/victim in Cri.Appeal Nos. 364/22 and 515/22, respectively, are entitled to receive their fees. The High Court Legal Services Authority, Nagpur is directed to pay the fees of the learned appointed advocates, as per the Rules.

28. Both the appeals stand disposed of in the aforesaid terms.

(G. A. SANAP, J.)

Diwale