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*Judgment in POCSO  
Spl.C.No.100381/2014*

MHCC020116372018



Presented on : 01/09/2014  
Registered on : 01/09/2014  
Decided on : 12/12/2025  
Duration : 11Ys 03Ms 11Ds

Exhibit-91

Form No.XXXII

Part-A (Title Page of Judgment)

[Para 44(i) of Chapter VI of Criminal Manual]

IN THE COURT OF SESSIONS FOR GREATER BOMBAY  
AT BOMBAY

PRESENT :- HHJ SHRI SATYANARAYAN R. NAVANDER  
SPECIAL JUDGE  
(JO CODE : MH01083)  
(COURT ROOM NO.54)

POCSO SPECIAL CASE NO.100381 OF 2014

[Date of the Judgment : 12<sup>th</sup> December, 2025.]

Details of FIR/Crime Number and Police Station	:	Crime No.201 of 2014 dated 01/07/2014 registered for the offences punishable under Sections 354, 354(A), 323 and 506 of Indian Penal Code, 1860 and Sections 8, 9 & 12 of the Protection of Children from Sexual Offences Act, 2012, by Dadar Police Station, Mumbai.
Informant	:	In order to secure identity of informant, his name is not referred / mentioned in the Judgment.
Represented by	:	Ld. SPP Mrs. Sulbha Joshi for the State.
Accused	:	1. Lordu Papi Gade Reddy (Lourdu Reddy Gade) Aged: 62 years, Indian Inhabitant,

.....02/-

		<p>Occ.: Retired Teacher, R/o.: Plot No.19, Near Auto Rickshaw Stand, Monifort Empowerment Centre, Gorai Village, Borivali (West), Mumbai – 400 091.</p> <p>2. Dattkumar Bhaskar Patil Aged: 61 years, Indian Inhabitant, Occ.: Retired Special Teacher, R/o.: 3E/302, PMGP Colony, Mulund (East), Mumbai – 400 081. <u>Postal address</u>: Flat No.1003, 4B, Destiny World, Gavanpada Road, Opp. Fire Brigade, Mulund (East), Mumbai – 400 081.</p>
Represented by	:	Advocate Mr. Madhusudan D. Parekh a/w ld. Advocate Mr. Parth Bhanushali for the Accused.

**Part-B**

**[Para 44(ii) of Chapter VI of Criminal Manual]**

Date of offence	:	14/06/2013 to 01/06/2014
Date of FIR	:	01/07/2014
Date of Chargesheet	:	01/09/2014
Date of Framing of Charges	:	15/06/2016
Date of Commencement of Evidence	:	06/02/2017
Date on which judgment is reserved	:	06/11/2025
Date of the Judgment	:	12/12/2025
Date of the Sentencing Order, if any	:	12/12/2025

**Accused details**

Rank of the accused	Name of accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 428 Cr.PC.
1	Lordu Papi Gade Reddy (Lourdu Reddy Gade)	01/07/2014	12/09/2014	U/s.10 of the POCSO, Act, 2012 and u/s. 354, 506 & 323 of the IPC, 1860.	Convicted	(i) Sentence d to suffer RI for the period of 5 years and to pay fine of Rs. 25,000/-, in default to suffer SI for 6 months for the offence u/s.9 punishable e u/s.10 of the POCSO Act, 2012  (ii) Convicted for the offence punishable e u/s.354 of the IPC, 1860.	From 01/07/2014  To 12/09/2014  (2 months & 11 days)

						However, no separate sentence is awarded for the same.  (iii) Acquitted for the offences punishabl e u/s.506 and 323 of the IPC, 1860.	
2	Dattkum ar Bhaskar Patil	01/07/ 2014	12/09/ 2014	U/s.10 of the POCSO, Act, 2012 and u/s. 354, 506 & 323 of the IPC, 1860.	Convicted	(i) Sentence d to suffer RI for the period of 5 years and to pay fine of Rs. 25,000/-, in default to suffer SI for 6 months for the offence u/s.9 punishabl e u/s.10 of the POCSO Act, 2012	From 01/07/ 2014  To 12/09/ 2014  (2 months & 11 days)

						<p>(ii) Convicted for the offence punishable u/s.354 of the IPC, 1860. However, no separate sentence is awarded for the same.</p> <p>(iii) Acquitted for the offences punishable u/s.506 and 323 of the IPC, 1860.</p>	
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## Part-C

[Para 44(iii) of Chapter VI of Criminal Manual]

## LIST OF PROSECUTION / DEFENCE / COURT WITNESSES:

## A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
PW-1	PBV (Exhibit-14)	Informant/Victim.
PW-2	DBV (Exhibit-17)	Informant/Victim's mother.
PW-3	Shankar Tatya Belsekar (Exhibit-19)	Panch witness.

PW-4	Sanyogita Rajendra Devale (Exhibit-26)	Special Teacher for Deaf and Dumb persons.
PW-5	Bharati Parag Lele (Exh.28)	Sign Language Interpreter.
PW-6	RSN (Exhibit-29)	Victim.
PW-7	VKW (Exhibit-34)	Eye witness.
PW-8	PN Vinod Pratap Patil (Exhibit-44)	Police witness.
PW-9	Priyanka Tatyaso Patil (Exhibit-55)	Investigating Officer.
PW-10	PI Shivaji Nagu Kadam (Retired) (Exhibit-68)	Investigating Officer.
PW-11	Olina Moraes (Exhibit-71)	Head Mistress (Retired).
PW-12	Dr. Rajesh Chandrakant Dere (Exhibit-75)	Medical Officer.

**B. Defence Witnesses, if any :**

RANK	NAME	NATURE OF EVIDENCE
DW-1	Namrata Shailesh Yadav (Exhibit-83).	School Teacher.
DW-2	Brother William Raymond D'mello (Exhibit-86).	Managing Trustee/Teacher.

**C. Court Witnesses, if any :**

RANK	NAME	NATURE OF EVIDENCE
NIL		

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS:****A. Prosecution :**

Sr. No.	Exhibit Number	Description
1.	Exh.P-15/PW-1	Printed FIR alongwith signature.

2.	Exh.P-18/PW-2	Statement of victim dated 23.07.2014.
3.	Exh.P-20/PW-3	Extent of signature of statement.
4.	Exh.P-30/PW-6	Photocopy of Birth Certificate.
5.	Exh.P-35/PW-7	Copy of Birth Certificate.
6.	Exh.P-48/PW-8	Certificate under Section 65(B) of the Indian Evidence Act.
7.	Exh.P-69/PW-10	Letter issued by the witnesses.
8.	Exh.P-70/PW-10	Seizure panchanama dated 18.07.2014.
9.	<i>Article-A/PW-10</i>	Xerox copy of the letter issued by the mother of informant and affidavits of parents of the student.
10.	Exh.P-72/PW-11	Bonafide certificate of victims for the academic year 2014.
11.	Exh.P-73/PW-11	Verified copies of the extracts of register.

**B. Defence Admitted Exhibits :**

Sr. No.	Exhibit	Description
1.	Exhibit-21	Spot panchanama.
2.	Exhibit-22	Arrest panchanama of accused no.1.
3.	Exhibit-23	Arrest panchanama of accused no.2.
4.	Exhibit-24 colly.	Medical papers.
5.	Exhibit-25	Forwarding letter sent to CA.

**C. Court Exhibits :**

Sr. No.	Exhibit	Description
1.	Exh.C-4	Charge.
2.	Exh.C-5	Plea of accused no.1.
3.	Exh.C-6	Plea of accused no.2.
4.	Exh.C-77	Evidence closure pursis filed by the prosecution.

5.	Exh.C-78	Statement of accused no.1 u/s. 313 of Cr.PC.
6.	Exh.C-79	Statement of accused no.2 u/s. 313 of Cr.PC.
7.	Exh.C-80	Additional written statement of accused no.1 & 2 u/s. 313 of Cr.PC.
8.	Exh.C-84	Statement of witness u/s.164 of Cr.PC.
9.	Exh.C-85	Statement of victim u/s.164 of Cr.PC.
10.	Exh.C-87	Evidence closure pursis filed by ld. Advocate for accused.

**D. Material Objects :**

Sr. No.	Objects	Description
NIL		

**Marked and unmarked VPR/MPR :**

Sr. No.	Objects	Description
1.	Article-1	Hard Disk.
2.	Article-2	CD.
3.	Unmarked Article	Mango bite chocolate box and chocolate which was nibbled (only plastic bag).

**JUDGMENT****(Delivered on the 12<sup>th</sup> day of December, 2025.)**

Accused No.1 Lordu Papi Gade Reddy (**Lourdu Reddy Gade**) and accused No.2 Dattkumar Bhaskar Patil, stand charged with offences punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO, 2012' for short) and under Sections 354, 506 and 323 of the Indian



Penal Code, 1860 (hereinafter referred to as 'IPC' for short), registered with Dadar Police Station, Mumbai, vide Crime No.201 of 2014, dated 01.07.2014.

*(**Note:-** In order to secure identity of the victims, their names and names of other concern relatives, places are not referred / mentioned in the Judgment.)*

**Brief Facts of the Prosecution Case:**

2. This case relates to sexual assault on female students of a school for the Deaf and Aphasic. The minor, deaf and dumb girls were subjected to sexual harassment and sexual assault by the Head Master and Teacher of the said school.

3. The informant in this case is a 13 years old minor girl student of the above school. In the complaint she has stated that she was deaf and dumb by birth, that since before 4 years i.e. when she entered in the 1<sup>st</sup> standard she is able to speak and also could hear with the help of hearing aids. She was taking education in the school since 2006. The accused no.1 L.P. Reddy was the Principal whereas accused no.2 Dattkumar Patil, was a teacher of the said school. The accused no.1 was holding post of Principal since about 5 years of filing of the complaint. He used to call girls in his office and used to misbehave with them.

4. On 14/06/2013 the school opened after vacation. The accused no.1 called the victim girl i.e. the informant, in his office, hugged and kissed on her cheek and the such instances repeated thereafter. Likewise, he used to call other good-looking girls in his office and used to sexually harass them in the similar manner. Due to

fear of rustication from the school neither the informant nor the other victims disclosed those instances to their family members.

5. In the similar manner, the accused no.2 used to harass the minor students in the school and more particularly the girls, showing obscene photos in the newspaper, touching them inappropriately with sexual intend, thereby outraging their modesty and making sexual gestures. The students used to whisper these indecent activities causing sexual harassment amongst themselves.

6. In the month of May 2014, Ex-President of Bombay Foundation of Deaf Women namely Sangita Gala held a meeting of students and their parents at Dadar West. In the said meeting it was revealed that both the accused were committing sexual assault and causing sexual harassment to the minor girls of the school and outraging their modesty. The conduct of the accused, as such, was continued even after said meeting and therefore, all the victims and their parents decided to file complaint against the accused. Accordingly, FIR came to be registered at the instance of one of the victims i.e. 'PBV'.

**First Information Report:**

7. On the basis of the said report, crime was registered vide CR No.201 of 2014 at Dadar Police Station for the offences punishable under Sections 354, 354(A), 323 and 506 of IPC, 1860 and Sections 8, 9 and 12 of the POCSO Act, 2012 against the accused. The investigation commenced thereon.

**Investigation:**

8. The Investigating Officer visited the place of incident and

prepared spot panchanama in presence of panch witnesses. Investigating Officer interrogated the witnesses and recorded their statements. Accused were arrested. Statements of victims were recorded under Section 164 of Cr.PC. CCTV footage of the school was secured. As the investigation revealed the complicity of the accused, charge-sheet came to be filed against the accused under Sections 354, 354(A), 323 and 506 of IPC and under Sections 8, 9 and 12 of the POCSO Act, 2012.

**Charge:**

9. My Id. Predecessor framed Charge at Exhibit-4 for the offences punishable under Section 10 of the POCSO Act and under Sections 354, 506 and 323 of the IPC against the accused. It was read over and explained to the accused in vernacular. The accused abjured their guilt and claimed trial.

**Evidence:**

10. At the trial, to substantiate the indictment against the accused, the prosecution examined in all twelve (12) witnesses, as mentioned above.

**Statement u/s.313 of the Cr.PC.:**

11. As the prosecution closed its evidence, the statements of accused under Section 313 of the Code of Criminal Procedure, 1973 came to be recorded at Exhibits-78 and 79. The accused have submitted additional written statement at Exhibit-80 and examined two witnesses in their defence.

**Arguments:**

12. At the conclusion of the trial, Ld. SPP Sulbha Joshi has argued that prosecution has produced sufficient evidence to establish the charge against the accused, that victim (PW-6) has deposed her ordeal in detail, her evidence stands corroborated by the evidence of witness (PW-7). There is sufficient evidence to prove that victims were minor at the time of incident and the accused had taken undue advantage of their position as Head Master and Teacher of the school respectively, and committed the offence of sexual assault. It is submitted that the informant and her mother have turned hostile because they were won over, but their hostility does not affect the case of the prosecution. It is argued that there is no reason for the victims and other witnesses to depose against the accused, that they are natural witnesses and their evidence is reliable and trustworthy. It is argued that the offence is of serious nature, it has been proved beyond reasonable doubt and therefore accused be convicted.

13. Ld. Advocate Madhusudan Parekh for both the accused has argued that the informant/victim (PW-1) has turned hostile, and admitted that the case is false and it was registered due to pressure and influence of Sangita Gala, who was interested to book the accused behind bars. It is submitted that the evidence of PW-6 and PW-7 has result of tutoring. There are inherent inconsistencies and discrepancies, which make their evidence unreliable. It is submitted that the prosecution has omitted material witnesses from the trial and therefore, adverse inference required to be drawn in favour of the accused. Ld. Advocate has taken me through the entire evidence and

made an attempt to demonstrate innocence of the accused.

**Points for Determination:**

14. In the light of the charge against the accused, evidence on record, the statement of accused under Section 313 and rival submissions at the bar, following points arise for my determination. I have recorded my findings against each of them for the reasons to follow:

POINTS	FINDINGS
1. Does prosecution prove that accused no.1 and 2 from 14.06.2013 to 01.06.2014 and before, at the school mentioned in the charge-sheet, accused no.1 being Principal and accused no.2 being a Teacher of the school, committed sexual assault on victims namely PBV -aged 13 years, RSN -aged 13 years, VUG -aged 19 years, all dumb and deaf and were taking education in the school mentioned in the charge-sheet, by touching their body, hugging them and kissing them with sexual intent, and thereby committed an offence under Section 9 punishable under Section 10 of the POCSO Act?	<b>Proved.</b>
2. Does prosecution prove that accused no.1 and 2 on the above said date, time and place, outraged the modesty of above said victims by touching them, kissing them and hugging them with sexual intent, and thereby committed an offence punishable under Section 354 of the IPC?	<b>Proved.</b>

3. Does prosecution prove that accused no.1 and 2 on the above said date, time and place, threatened the victims to remove them from school if they narrate the incidence of sexual molestation by accused no.1 and 2 on them , and thereby committed an offence punishable under Section 506 of the IPC ? **Not proved.**
4. Does prosecution prove that accused nos.1 and 2 on above said date, time and place have assaulted above said victim regularly with slaps, and thereby committed an offence punishable under Section 323 of the IPC ? **Not proved.**
5. What order ? **Accused are convicted as per final order.**

### **REASONS**

#### **AS TO POINTS NO.1 & 2:**

#### **Appreciation of oral evidence:**

15. Informant PW-1 has deposed that she is deaf and dumb by birth and when she was 9 years old she started hearing with aids and speaking. She has identified the accused no.1 as Principal of the school and accused no.2 as a Teacher. She disclosed her date of birth as 06/10/2000. The complaint was filed on 01.07.2014. Her mother (PW-2) has confirmed date of birth of the informant/victim (PW-1). The date of birth of the informant PW-1 has not been disputed or denied. That means she was 14 years old at the time of incident i.e. a minor.

16. The evidence of the informant was recorded with the help of an Expert in sign language. When she was not able to understand

the questions asked by Id. SPP, help of Interpreter was taken and it was so noted in the evidence recorded by my Id. Predecessor. On taking such help the witness has deposed that on 14.06.2013 the accused no.1 touched her body and that he used to give chocolate to her. She further states that the accused no.1 used to do above things in his room, that another victim "RSN" also had similar experience and shared with her. So far as accused no.2 is concerned, the informant (PW-1) has stated that he did nothing with her. Nevertheless, this witness has affirmed filing of the complaint Exhibit-105.

17. During cross-examination of the informant (PW-1), it is brought on record that before recording of the complaint (Exhibit-15) at police station there was discussion between Sangita Gala, her parents and one Vishwajeet Nair as to the incident happened with her. It is further admitted by the witness that Sangita Gala guided her what to tell the police. The witness says that her parents told her to listen Sangita Gala and to act as she said. However, witness denied that her parents asked her to follow the directions of Sangita Gala.

18. It is necessary to note here that the victim (PW-1) was avoiding details in the examination in chief but was stick up to the complaint and the allegations against accused no.1. Then the cross-examination of the victim (PW-1) was adjourned at the request of the Id. Advocate for the accused on 06.02.2017 and when it was resumed on 17.02.2017, the victim altogether changed her version. The witness who was already feeble, in the later part of the cross-examination crumbled down. She gave admissions, totally inconsistent her earlier statement, exhibiting dominance and control of the accused. She then

admitted that the accused no.1 used to treat all the students as his child, he used to appreciate the students if they perform well in the studies, used to give chocolates and also used to pat on the back under appreciation of the work, that accused no.1 used to teach English Grammar and his teaching was good and that she used to disclose everything to her mother and was always appreciate by the accused no.1. she disowned the statement given to police i.e. complaint (Exhibit-15) saying that she did not know the contents, which were affirmed by her on earlier date. It has further brought on record that Sangita Gala accompanied her to the police station with her parents and she (Sangita Gala) only gave information to the police and accordingly complaint (Exhibit-15) was recorded.

19. It has further brought on record during cross-examination of the complainant PW-1 that there is playground opposite to the cabin of the accused no.1, after porch and one can see the door of the cabin from the playground and that door used to be always open, and one can see the Principal seating from outside.

20. From the evidence of the victim (PW-1) what can be gathered is that she was won over by the accused even before she entered the witness box. Still she was deposing against the accused and was reluctant to admit the suggestions put to her by the defence counsel. For that reason only the accused got her cross examination deferred and on the next date got puppet like admission from her. This is an example as to how the prosecution witnesses are strategically influenced and compelled to dance to the tune of defence. When it is clearly noticed that the later part of cross examination of the witness is



the defence story, which is outcome of undue influence and pressure of accused, it can be said to be a serious interference with the administration of justice. This part of the deposition of the victim therefore needs to be discarded, accepting the earlier as a reliable piece of evidence. In taking this view I am fortified by the observations of the Hon'ble Supreme Court, recorded in the judgment in the case of ***"Selvamani vs. The State Rep. by Inspector of Police (Criminal Appeal No.906 of 2023, decided on 08.05.2024)***, which is on the premise of similar facts. I quote the relevant para nos.8, 9 and 10 hereunder.

*"8. No doubt that the prosecutrix and her mother and aunt in their cross-examination, which was recorded three and a half months after the recording of the examination-in-chief, have turned around and not supported the prosecution case.*

*9. A 3-Judge Bench of this Court in the case of Khujji @ Surendra Tiwari v. State of Madhya Pradesh<sup>6</sup>, relying on the judgments of this Court in the cases of Bhagwan Singh v. State of Haryana<sup>7</sup>, Sri Rabindra Kuamr Dey v. State of Orissa<sup>8</sup>, Syad Akbar v. State of Karnataka<sup>9</sup>, has held that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. It was further held that the evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof.*

*10. This Court, in the case of C. Muniappan and Others v. State of Tamil Nadu<sup>10</sup>, has observed thus:*

*"81. It is settled legal proposition that : (Khujji case, SCC p. 635, para 6)*

*'6. ... the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof.'*

*82. In State of U.P. v. Ramesh Prasad Misra, (1996) 10 SCC 360] this Court held that (at SCC p. 363, para 7) evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused but required to be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence can be relied upon. A similar view has been reiterated by this Court in Balu Sonba Shinde v. State of Maharashtra, (2002) 7 SCC 543], Gagan Kanojia v. State of Punjab, (2006) 13 SCC 516], Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450], Sarvesh Narain Shukla v. Daroga Singh, (2007) 13 SCC 360] and Subbu Singh v. State, (2009) 6 SCC 462.*

*83. Thus, the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence."*

21. The mother of the victim (PW-2) has also turned hostile. She has stated that her daughter (PW-1) was studying in the Stephen

High School for deaf and Aphasic in the year 2014, that accused no.1 was principal of the said school, whereas accused no.2 was a teacher. She has further deposed that in the year 2014, parents of many students held a meeting, which was attended by some NGO workers. However, she has abstained from giving further details as to why the complaint was filed against the accused.

22. PW-2 was subjected to cross-examination by ld. SPP. The police statements as well as her statement recorded under Section 164 of Cr.PC. (Exhibit-18) were confronted to her. She could not explain the contents of the statement recorded by ld. Metropolitan Magistrate.

23. In cross-examination conducted on behalf of the accused, PW-2 has admitted that the members of NGO had done brain wash of the students before recording of their statements by police. The lady admits that her daughter (PW-1) never complained against any of the accused and that she used to tell everything happened in the school. It is further brought on record that the victim (PW-1) used to go to the school happily, without any complaint. From these admissions of PW-2, ld. Advocate for the accused has argued that false complaint was filed at the instance of Sangita Gala and the allegations made in the complaint are baseless.

24. It is further brought on record during cross-examination of PW-2 that meeting of parents was conducted under the supervision of Sangita Gala, that she was forced to go to police station and file complaint, that she was not aware about the contents of the

complaint which were dictated by Sangita Gala. The witness has further admitted that after filing of the complaint, she went to the police station to withdraw the same being it was false.

25. From reading of the evidence of victim (PW-1) and her mother (PW-2), what can be gathered is that they had prepared their mind not to disclose anything about the incident. Both of them gave admissions clearly with an intention to save the accused from punishment. However, there is no valid explanation for filing of the complaint (Exh.15). The evidence of PW-2 is found untrue as the victim (PW-1) has deposed about the illicit acts of the accused no.1, in respect of herself and other victim, RSN (PW-6).

26. Another victim 'RSN' (PW-6) has given minute details of the entire happenings, the conduct of the accused and sexual harassment faced by her. She has stated her date of birth as 17.10.2000. Her birth certificate was also tendered in the evidence (Exh-30). It is not disputed by the accused and as such it is proved that she was minor in the year 2014.

27. The witness has further deposed that she was taking education in the Stephen High School for deaf and Aphasic in 2014, that accused no.1 was principal whereas, accused no.2 was teacher in the school. These are undisputed facts.

28. While giving details on the incriminating aspects, this witness has stated that whenever there were no students or teachers nearby, accused no.1 used to call her in the office and used to kiss her. She has given details of the instances when accused no.1 had

committed sexual assault repeatedly, on the staircase of the school or when she was passing from the corridor of the house of accused no.1. According to her, approximately 5 to 6 times accused no.1 did such illicit acts. There are no material omissions in her evidence.

29. So far as accused no.2 is concerned, RSN (PW-6) has stated that he showed an advertise of lingerie (undergarment) from a newspaper and also showed an advertisement of brassier and undergarments and touched her inappropriately from back side when she was in typing class and was typing on the computer. According to this witness, both the accused were engaged in such type of behaviour since more than two years of filing of the complaint. She has further stated that in the beginning, she made no disclosure of the acts of molestation by both accused. However, one of the lady teacher saw the accused misbehaving with her and thereafter, she narrated the incident to parents. The witness has further deposed that her parents told her to keep quite and to ignore the incident. They took it casually and therefore, she kept mum. However, in the month of May-2014, when such instances were increased, many of the victims made aware their parents about the same, thereafter, a meeting was held in presence of social activist Sangita Gala and thereafter, the complaint came to be filed with her assistance.

30. The evidence of victim RSN (PW-6) is in detail. She has described the of instances of molestation occurred in the school and the manner in which both the accused behaved with her and with other victims. She was subjected to lengthy cross-examination on behalf of the accused, but nothing material has come on record except

denied suggestions. It is brought on record that she could not give exact date or month of the incidents quoted by her in respect of both the accused.

31. Ld. Advocate for the accused has argued that unless the witness gives details as to the exact date or period during which the instances occurred, the vague statement cannot be accepted and relied upon. According to him, the victim deposed at the instance of social activist Sangita Gala, who was interested in introducing sign language in the school for which the administration of the school was not ready. The entire cross-examination of the victim (PW-6) is aimed to show influence of Sangita Gala at the time of filing of complaint. However, the witness has specifically denied that Sangita Gala had taken lead in filing of complaint. What she has stated is that Sangita Gala assisted them in approaching the police.

32. While appreciating evidence of RSN (PW-6), it is to be kept in mind that she is a special child. Her evidence is recorded with the help of an Interpreter. Despite of the difficulties, the victim has given minute details of the instances of molestation by accused no.1 and 2. When the instances were recurring, may be with some intervals, for the period of more than two years, it is obviously difficult for the victims to remember either date or exact period. The Court cannot expect evidence of the victim with such a precision, especially when she is a special child. What is important to note here is that victim RSN (PW-6) had no reason to make false allegations or accusations against any of the accused. To believe that she made false accusations, there must be some reason. A 13 years girl, who was

attending the school regularly, was molested by the accused and she has deposed her saga before the Court flawlessly. She has given details of the initial stand taken by her parents, the meeting held by the parents and how they approached the police. The sequence of evidence given by her are consistent to the case of prosecution and the other evidence on record.

33. Evidence of victim RSN (PW-6) is further supported by the evidence of student VKW (PW-7), a boy. He has deposed that his date of birth is 16.10.2000. The birth certificate of this witness is at Exhibit-35. As such, VKW (PW-7) was 13 to 14 years old at the time of incident i.e. a minor. This evidence has not been disputed or denied on behalf of the accused.

34. Witness VKW (PW-7) has deposed that accused no.1 used to hug the girls and used to kiss them on cheeks. Going further, he has stated that he had seen accused no.1 hugging and kissing girls namely P, RSN, V and V. So far as accused no.2 is concerned, this witness has stated that accused no.2 used to show obscene and nude pictures of girls to the students and used to advice the boys to give such pictures to their girlfriends. It is further deposed that accused no.2 used to ask him whether he had a girlfriend, to which VKW (PW-7) denied and then accused no.2 told him to go and search someone. Giving further details, witness has stated that he had seen accused no.2 molesting one of the girl student of the school, naming the girl.

35. The evidence of victim RSN (PW-6) and VKW (PW-7) are corroborated by their statements recorded under Section 164 of

Cr.PC. during investigation (Exhibit-84 and 85). Their evidence before the Court is consistent to their statements given to the Id. Magistrate immediately after registration of FIR.

36. During cross-examination of PW-7, it is brought on record that he had requested Sangita Gala to accompany him to the Court when he received summons for evidence. However, he has specifically denied that Sangita Gala issued instructions to him as to what should be deposed in the Court.

37. During cross-examination of PW-7, it is brought on record that police statement was read over to him before he entered the witness box. For this reason alone, his evidence does not become inadmissible or unreliable. However, in such a case, the Court has to be cautious and the evidence of such witness has to be scrutinized carefully. It is to be seen whether the evidence of the witness is influenced by the recent go through of the police statement.

38. During cross-examination of PW-7, it is brought on record that before filing of the complaint, there were prior discussions between the parents, Sangita Gala, she held couple of meetings and also accompanied them to the police station for filing of complaint. The details given by the witness during cross-examination are consistent to the evidence of victim RSN (PW-6) and also to the FIR (Exh-15). At this stage, it is necessary to note that victim (PW-6) had clarified during her cross-examination that Sangita Gala guided them how to approach the police and file complaint, but she never took initiative. She has also stated that initially parents were not ready to



meet Sangita Gala, but after the meeting, they approached her with the request.

39. It is not at dispute that Sangita Gala is a social activist and she was an office bearer of Women Federation. In addition, she is an ex-student of the same school. When a social servant receives a call from the victims of sexual assault, that too from the school where she studied, it is not surprising on her part to respond and render all possible help to address the grievance of the victims. The assistance provided by Sangita Gala cannot be and need not be mistaken as any ill-motivated action taken by her to settle some score, either with the school administration or with the accused.

40. There is consistent evidence of victim RSN (PW-6) and witness VKW (PW-7) about the sexual assault committed by both the accused on different victims on different occasions. When such evidence of sexual offence against children is produced before the court, the presumptions envisaged under Section 29 and 30 of the POCSO Act get attracted. It would be proper to reproduce the provisions, which are as follows:

***“29. Presumption as to certain offences. — Where a person is prosecuted for committing or abetting or attempting to commit any offence under sections 3, 5, 7 and section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved.***

***30. Presumption of culpable mental state. — (1) In any prosecution for any offence under this Act which requires a***

*culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.*

*(2) For the purpose of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.”*

41. The juridical presumptions as above get attracted when the evidence of fundamental facts is produced by the prosecution. In the present case, as noted above, there is clear evidence from RSN (PW-6) and VKW (PW-7) about the illicit acts of both the accused. Therefore, as per section 29 and 30 of the POCSO Act It is to be presumed by the Court that both the accused had committed the offence of sexual assault, and that they carried such intention while committing those acts. It is for the accused to rebut the presumptions by reliable and acceptable evidence. The quality of rebuttal evidence to dislodge presumption of *mens-rea* is expected to be of the standard of beyond reasonable doubt. Merely bringing clouds or shadow of suspicion on the story of prosecution is not sufficient to rebut the presumption in such a case. Keeping in mind the legislative intent and the statutory presumptions the evidence on record is assessed and weighed.

42. In order to rebut the presumption as above, the ld. Advocate for the accused has relied upon the evidence of defence

witnesses and the cross-examinations of the prosecution witnesses. As observed above, the evidence of hostile witnesses PW-1 and PW-2, renders no help to the accused. So far as the cross-examinations of victim RSN (PW-6), witness VKW (PW-7) are concerned, there is no sufficient material which could make their evidence unworthy of credence and thereby rebut the juridical presumptions.

43. During cross-examination of nearly all the prosecution witnesses from the school and in the evidence of defence witnesses, teacher Namrata Yadav (DW-1) and Managing Trustee William D'mello (DW-2), it is brought on record that sign language was not in the syllabus of the school. Trustee William D'mello (DW-2) has stated that sign language was not introduced in the school and the education was imparted by oral aural method, that in the year 2013, school management had received an anonymous letter making request to introduce sign language in the school, but the management did not allow it at that time. However, at present sign language is introduced under the directions of Government.

44. What is important to note is that, William D'mello (DW-2) himself states that sign language is used by the children amongst themselves. Further he says that along with aural method, the teachers use gestures. When his evidence is read carefully, what can be gathered is that although sign language was not specifically taught in the school, it was used by the teachers and students for convenience. More importantly, statements of the victims and other students of the school were recorded by the Investigating Officer with the help of experts in sign language. Also, for recording evidence of

the victims and students of the school, sign language teachers were called as Interpreters in the Court. With their assistance, evidence of victims PW-1 and PW-6 and the student PW-7 were recorded. There is no dispute about the correct translation and interpretation made by them in recording of evidence. That means though officially sign language was not used in the school, the teachers were imparting education using sign language with oral aural method.

45. It is the defence of the accused that Sangita Gala was insisting to introduce sign language as a subject in the school, to which the management was not ready and therefore, she was aggrieved. It is the defence that the management did not agree to introduce sign language in the school and therefore, Sangita Gala provoked the victims and their parents and filed this false case.

46. The defence, however, could not lay a foundation of the claim. There is absolutely no material to show that the lady, at any point of time, insisted so much for introducing sign language course in the school. Also, it cannot be believed that only because the proposal of introduction of sign language was not accepted, the social activist would go to the level of initiating false prosecution against the teachers of the school, choosing only the accused, with serious allegations of sexual harassment of the students. And no prudent man would believe that only because Sangita Gala insisted, the parents and students made false allegations of sexual harassment and sexual assault against the accused, who enjoyed high reputation and clean image amongst the students and parents. Such far fetching reaction merely for not invoking the course of sign language is not

possible from the students, their parents and also from the social activist. The defence story, which is tried to be build by the accused, thus has no base. It is so illogical that it cannot even be considered probable, far away from the standard of proof of beyond reasonable doubt.

47. Learned Advocate for the accused has vehemently argued that the parents used to drop students and take them away after the school hours and if really the students were subjected to sexual harassment, they must have disclosed this fact to the parents and at some earlier point of time, some complaint should have been made by the parents, either with the school administration or with the police. According to him, it cannot be believed that the parents kept mum and made no complaint of whatsoever nature for more than two years. It is therefore, argued on behalf of the accused that the evidence of victim RSN (PW-6) and VKW (PW-7) cannot be believed and relied upon.

48. Usually, the abusers are from the close network of the victims. They project themselves in the society with high stature and in a dignified manner. They carry the status and respected in the society. It is a fact of common knowledge that disclosure by children about sexual abuse by such abuser, like a teacher, holding position of trust and influence, is either not believed or not taken seriously by the parents. Only because the parents did not believe the victims, or they did not take action immediately, it cannot be said that evidence of the victims is false or untrue.

49. The Id. Advocate for the accused has argued that minors are prone to tutoring, that the victims PW-6 and PW-7 were under influence of Sangita Gala and there is every possibility that they have deposed against the accused as per the instructions given by the influential lady. According to him, considering the possibility of tutoring of these witnesses, their evidence cannot be relied upon. On this point, he has brought to my notice following judgments:

- (i) "Pradeep Vs. State of Haryana", reported in (2023) 19 Supreme Court Cases 221.*
- (ii) "Chhagan Dame Vs. State of Gujarat", reported in 1995 Supreme Court Cases (Cri) 182.*
- (iii) "Arbind Singh Vs. State of Bihar", reported in 1995 Supp (4) Supreme Court Cases 416.*

50. In the case of *Pradeep (cited supra)*, there was a child witness of 12 years of age. He was not able to depose properly and oath cannot be administered to the said witness. The Hon'ble Supreme Court has made certain observations regarding appreciation of evidence of such a tender age witness. In para no.11 and 12 of the judgment are quoted hereunder:

*"11. Under the proviso to sub-section (1) of Section 4, it is laid down that in case of a child witness under 12 years of age, unless satisfaction as required by the said proviso is recorded, an oath cannot be administered to the child witness. In this case, in the deposition of PW 1 Ajay, it is mentioned that his age was 12 years at the time of the recording of evidence. Therefore, the proviso to Section 4 of*

*the Oaths Act will not apply in this case. However, in view of the requirement of Section 118 of the Evidence Act, the learned trial Judge was under a duty to record his opinion that the child is able to understand the questions put to him and that he is able to give rational answers to the questions put to him. The trial Judge must also record his opinion that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth.*

*12. It is a well-settled principle that corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. A child witness of tender age is easily susceptible to tutoring. However, that by itself is no ground to reject the evidence of a child witness. The court must make careful scrutiny of the evidence of a child witness. The court must apply its mind to the question whether there is a possibility of the child witness being tutored. Therefore, scrutiny of the evidence of a child witness is required to be made by the court with care and caution.”*

51. The facts of the above cited judgment and the facts of the present case are entirely different. The witnesses examined in the present case, particularly victim (PW-6) and the eye witness (PW-7) were of 17 and 18 years old when they gave their evidence. It cannot be said that they were child witnesses. Although they were minor of 13 or 14 years old when the incident took place, they cannot be said to be of tender age when their evidence was recorded. They had

attained sufficient maturity when they were called to depose on the incident before the Court. Therefore, with due respect, the observations of the Hon'ble Supreme Court noted as above cannot be applied to the facts of the present case.

52. In the case of *Chhagan Dame (cited supra)*, the accused was convicted based upon the evidence of child witness of 8 to 10 years age. On appreciation of evidence of this witness, the Hon'ble Bench noted that there was possibility of tutoring of the witness and therefore, all the evidence is unreliable. The relevant observations of the Hon'ble Bench from para no.4 are quoted hereinafter:

*“4. Since this is a regular appeal, we have gone through the evidence of PW 2, PW 3, PW 4 and PW 6 meticulously. PW 2 was aged about 8 to 10 years and by way of cross-examination to a question put to her, she stated that if she tells a lie, the police will beat her and she was afraid of police. She stated that at about 7.30 a.m. when her mother was going for work and on the way her father, namely, the appellant came and started giving blows with a knife. She also saw accused 2 inflicting knife-blows on the deceased. Thereafter, the father ran away. She further deposed that as soon as her father started running away, Jakalben and one Maharaj (PW 4) came there. She sent her brother (PW 3) to inform the grandmother. In the cross-examination, she admitted that she was afraid of the police personnel and that before informing the Court, one police officer and two other policemen told her to tell only whatever she had seen and*



*that the police officer recorded her statement and they went on saying that she had to give her evidence according to her statement already recorded. She further admitted that the police first recorded the statement of her maternal grandmother and then her statement. She does not say that she informed anybody nor mentioned about her father having stabbed the deceased to PW 4. Having considered the answers given by her, namely, that she was made to give evidence according to her statement under Section 162, creates doubt whether she could have been tutored. In the case of a child Witness, the Court has to carefully consider whether the child was under the influence of any tutoring, In the case, her answers to the questions in the cross-examination clearly indicate that she was tutored and she was made to give evidence in accordance with the earlier statement recorded under Section 162. Therefore, we find it highly unsafe to place reliance on her evidence. PW 3 was another child eyewitness and the son of the appellant and the deceased. He deposed that on the day of incidence, he was going to the residence of PW 6 along with the deceased and PW 2 was also there and they were going with their mother when their father, namely, the appellant came there with two more persons with cycles and started beating the deceased. He then went to his grandmother and told her that his father had killed the deceased. In the cross-examination, he admitted that he was informed by one lady about the incident and that was how he indicated to his grandmother.*

*Further, he clearly admitted that the said lady told him that someone was beating the deceased and he ran towards the place of incident and when he reached the place of incident, the accused had run away from the place of occurrence. These answers would indicate that he went to the scene of the occurrence only after the accused had run away and therefore he could not have seen the appellant inflicting any injury on the deceased. PW 3 further implicated 3 more persons including accused 2. In these circumstances, we find it highly unsafe to rely on the evidence of the eyewitnesses. PW 3 also admitted in the cross-examination that the police personnel met him and that he was afraid of the police and had given the evidence as told by the police personnel. This again shows that he was under the influence of the police and the possibility of tutoring cannot be excluded. If the evidence of these two witnesses is excluded, then PW 4's evidence is of no consequence. However, he deposed that he heard some cries and came out from his cottage and saw a lady lying and only saw one person having a knife in his hand. He further said that he saw a girl at the scene of occurrence who told him that the person having a knife was her father. But PW 2 in her evidence nowhere stated that she told PW 4 that the person holding the knife was her father. Under these circumstances, PW 4's evidence also becomes highly doubtful. The learned Sessions Judge has considered all evidence in detail and given good reasons for rejecting the same. The view taken by him cannot be said to be*

*unreasonable and does not call for any interference in an appeal against acquittal by the High Court. For all these reasons, the conviction and sentence awarded to the appellant are set aside and his bail bonds shall be cancelled.”*

53. The observations of Hon’ble Supreme Court in the case of *Arbind Singh (cited supra)* are also similar. The Hon’ble Bench has observed that a child witness is prone to tutoring and hence, the Court should look for corroboration particularly when the evidence betrays traces of tutoring.

54. As noted above, in all the above cited cases, the witnesses were from the range of 8 to 10 years. In contrast thereto, the witnesses examined in the present case are of 17 and 18 years old. They have attained age of maturity. They are capable of analyzing the facts independently. They have deposed before the Court quoting their own experience and observations. They have not been shattered their respective cross examinations. Both these witnesses have categorically denied that Sangita Gala or their parents influence them. It is specifically stated by the witnesses that Sangita Gala assisted them to make complaint, but it was the decision taken by their parents to approach the police. The detail narration of both the witnesses makes it clear that they were not tutored by either Sangita Gala or by anybody else.

#### **Conduct of the Accused:**

55. During cross-examination of mother of victim i.e. PW-2, it is brought on record that after filing of the complaint, she went to the

police station to withdraw the same. Ld. Advocate for the accused has argued that many of the parents had furnished affidavits in favour of the accused making a declaration that the complaint filed with police is false and it be withdrawn. None of those affidavits are proved by calling the deponents. However, from the conduct of the accused, what can be gathered is that after filing of the complaint, they had approached the parents of the victims and applying their influence, got sworn the affidavits in their favour. This shows that they were so influential that they could get furnished affidavits in their favour from the parents of the victims. It cannot be accepted that the mother of the informant had approached the police for withdrawal of complaint at her own because there is no evidence to show that the complaint was filed under any influence or pressure of someone. The only inference which can be drawn is that due to influence of the accused she showed readiness to withdraw the complaint and has also turned hostile during trial.

56. The post incident conduct of the accused, as above, is admissible under Section 8 of the Evidence Act. The conduct explains as to why the victims and their parents were reluctant to agitate their grievance. They were afraid of the career of the victims and the other students in the school. Certainly, every parent wants that education of his ward should not be put under hindrance or obstruction and there should not be any disturbance in the school atmosphere. It is tendency to ignore the complaint of the students treating them trivial or minor. For all these reasons, the illicit acts of the accused were condoned by the parents for quite some time. The post incident

conduct of the accused thus corroborates the case of prosecution.

**The Topography of the School:**

57. During cross-examination of victim (PW-1), another victim (PW-6) and student (PW-7), it is brought on record that the cabin of accused no.1 is situated just opposite to the playground of the school, the door of the office used to be open in the working hours and there used to be students of at least one class playing on the ground all the time in the school period. On the basis of this material, it is vehemently argued on behalf of the accused that when the cabin was visible from the playground all the time, it was not possible for accused no.1 to molest any of the victim as alleged.

58. What is seen from the playground is the cabin. That does not mean that everything inside is also visible. That apart considering the strength of the school, it is possible to have some private moments for accused no.1. It is the specific statement of victim (PW-6) that whenever there was nobody around, accused no.1 used to call girls and used to hug and kiss them. That means, he was snatching opportunity whenever possible. What is important to note is that the other students like PW-7 had seen accused no.1 while molesting girls in such a way.

**Defence taken by Accused No.2:**

59. According to PW-6, the incident occurred when she was typing on computer in the class. A pity effort was made on behalf of the accused no 2 through defence witness teacher Namrata Yadav (DW-1). Through her it is brought on record that accused no.2 was

not a teacher for computer and some other teacher used to come from outside to take the class of typing. It is also brought on record that accused no.2 was not teaching the victim (PW-6) or other victims and therefore, there was no occasion for him to have proximity viz., students of this class.

60. What is important to note is that accused no.2 was the teacher of the said school and there was no prohibition for him to enter the classrooms. There is no reason for victim (PW-6) to depose false against accused no.2. Her evidence is pointed and clear and therefore, only because accused no.2 was not a teacher for her, the details given about her molestation, cannot be discarded. The fact that accused no.2 was not teaching to the class of the victims, cannot be said to be a fair possibility or probability of his not committing the offence, as alleged against him, particularly when there is clinching evidence of his illicit activities given by the victim RSN (PW-6) and witness VKW (PW-7).

**The recording of evidence of Special Children as witnesses:**

61. The prosecution has examined expert Interpreter Sanyogita Devale (PW-4) and Bharati Lele (PW-5). They both assisted in recording the statements of the victims, in the police station and in the Court. Sanyogita Devale (PW-4) had attended the police station and assisted police in recording statements of the victims. During her cross-examination, it has come on record that with the gestures and signs of the victims and other witnesses, she interpreted the statements and accordingly those were taken down by police. There is no grievance of the accused that she committed any error while

interpreting the statements.

62. Bharati Lele (PW-5) was summoned by police station Dada to assist the Court as an Interpreter and with her assistance, the statement of victim RN (PW-6) and evidence of VKW (PW-7) was recorded. She has specifically stated that she works as Freelance Sign Interpreter and Special Educator for Deaf. She has completed Diploma in Sign Language course and applying her skills, she interpreted the statements of the above witnesses.

63. The evidence of Bharati Lele (PW-5) has not been challenged by the accused and no grievance has been raised. As such, with the assistance of the sign language expert, evidence of the victims and the witness VKW (PW-7) was successfully recorded by the Court.

64. What is important to note here is that the Interpreters whose services were availed during investigation and during trial, were the sign language experts. They could easily and successfully interpret the victims PW-6 and PW-7. Evidence has been recorded in a flawless manner of all these witnesses, without any objection. That means, the students of the Stephen High School were and are well versed in sign language, may it was not a subject in the syllabus of the school.

65. In examination-in-chief, victim (PW-6) has stated that she does not understand the question asked to her without assistance of sign language. That means, sign language is invariably used in the

school and the students are accustomed to the same.

66. Thus, from the evidence what can be gathered is that in Stephen High School, oral aural method of teaching of education was in vogue. However, at the same time, the teachers were taking assistance of sign language, which is quite natural and therefore, the students were in habit of the same.

67. The assessment of evidence on the point of sign language as above makes it clear that the medium or the language was not a major issue either for the teachers or for the students. Therefore, merely because the proposal to introduce sign language as a subject was not accepted by the management, no student or the parents would have gone to the extent of filing of false complaint of this nature.

**Investigation:**

68. Prosecution has given details of the investigation through police officer Priyanka Patil (PW-9), retired PI Shivaji Kadam (PW-10) and Police Naik Vinod Patil (PW-8). These witnesses have given details as to how the statements of the victims and specially challenged witnesses were recorded. PN Vinod Patil (PW-8) has deposed that statement of informant/victim (PW-1) was recorded by WPSI Priyanka Patil (PW-9) in the Women Cell and the process was video recorded, of which a CD was prepared on the computer of the police station and it is submitted with the chargesheet. A lengthy cross-examination of this witness was done on the point of recording of the process digitally. During his cross-examination, the CD was run



and certain facts were brought on record. It is seen that at the time of recording of statement, Sangita Gala was found interacting with the victim PW-1 and others who were present there. It is further brought on record that the police officer made inquiry with the victim (PW-1) and the victim (PW-1) had replied it orally. It is brought on record that Sangita Gala was helping the informant by sign language to give answers to the police officer. The witness has admitted that at one point, Sangita Gala was seen giving instructions to the informant.

69. Witness Vinod Patil (PW-8) had video recorded the statement and he had copied the data into the CD. The certificate under Section 65B was also produced by him to certify genuineness of the data in the CD. From the evidence of Vinod Patil (PW-8), what can be gathered is that statement of the victim was recorded by Police Officer Priyanka Patil (PW-9) in presence of Sangita Gala and some other persons. Ld. Advocate for the accused has vehemently argued that the statement of the victim (PW-1) was influenced by Sangita Gala and therefore, the FIR cannot be accepted as a reliable piece of evidence.

70. From the assessment of the evidence of the victims and the witnesses, as above, it is found that Sangita Gala certainly helped the victims and their parents to approach police and lodge complaint. She assisted the investigation and was there during recording of the statements of the witnesses. However, she cannot be said to be the author of the story. She had made available the proper platform to lodge the grievance. No malice can be attributed to her for the efforts made by the lady to secure justice for the specially abled victims.

71. Evidence of Police Officer Priyanka Patil (PW-9) is tendered on the point of recording of statement of informant/victim (PW-1) i.e. FIR (Exhibit-15). Again, the cross-examination is done to exhibit presence of Sangita Gals at the time of recording of statement. What is important to note is that informant/victim (PW-1) went to police station along with her mother (PW-2), with some other victims and parents who were accompanied by Sangita Gala and complaint was filed against both the accused.

72. Investigating Officer, retired PI Shivaji Kadam (PW-10) had visited the spot of incident i.e. the school and drew spot panchanama (Exhibit-70). He had recorded statements of teachers and victims and secured CCTV footage from the school. He had referred the informant and victims to medical examination, samples were sent to FSL and on completion of formalities, he had submitted the chargesheet. The reports of medical examination of the victims and the reports of FSL are of no significance in the case, as there are no allegations of penetrative sexual assault or causing of hurt to any of the victim. The CCTV footage obtained from the school is also not incriminating, as nothing objectionable was found therein. It is so admitted by PI Shivaji Kadam (PW-10) in his cross-examination.

73. During cross-examination of PI Shivaji Kadam (PW-10), it is brought on record that Sangita Gala was actively participating the process of filing of complaint and investigation in this case, that both the accused were not teaching any subject to the victims and it was revealed during investigation that though the parents were not ready,

Santiga Gala was forcing them to give statements against the accused and such affidavits were submitted by some parents, claiming innocence of both the accused. It is further brought on record that in the statement recorded under Section 164 of Cr.P.C., the informant/victim (PW-1) made no allegations against the accused.

74. From the above cross-examination of the Investigating Officer, it is argued that Sangita Gala was instrumental in lodging the case and the accused are innocent. This submission on behalf of the accused has already been dealt with exhaustively in para supra. It is observed by the Court that using influence, the accused had secured the affidavits of some of the parents to exhibit their innocence, which were certainly untrue.

**Conclusion:**

75. If the evidence of the witnesses is read carefully and cumulatively, what can be gathered is that both the accused, taking undue advantage of the physical condition of the victims, were harassing them sexually. There is clinching evidence to the effect that accused no.1 used to hug and kiss the victims, while accused no.2 used to show them obscene pictures and used to do molestation. The acts of the accused are squarely covered under the definition of sexual assault as provided under Section 7 of the POCSO Act. The accused were the teachers of the school for the deaf and dumb students i.e. the victims. That way, the victims were in their custody and care. Misusing their position of trust and taking undue advantage of their physical disability, the accused had committed sexual assault on the

victims. The accused have failed to make out their defence of innocence probable, leave aside the proof beyond reasonable doubt. Certainly, the offence of aggravated sexual assault as per Section 9 punishable under Section 10 of the POCSO Act stands proved against both the accused. Simultaneously, the offence of outraging of modesty under Section 354 of IPC is also established against both of them. It is therefore, I answer points no.1 and 2 in the affirmative.

**AS TO POINTS NO.3 & 4:**

76. Charges are framed against the accused for criminally intimidating the victims, issuing threats to remove from school if disclosure of the illicit acts is made by them and also for beating them and causing hurt i.e. for the offence punishable under Sections 506 and 328 of IPC. However, there is no specific evidence led by the prosecution on these points. Neither the victim (PW-6) nor VKW (PW-7) has disclosed anything about causing any hurt or criminal intimidation by any of the accused at any point of time. Therefore, for want of evidence, the charges under these heads stand not proved. Accordingly, I answer points no.3 and 4 in the negative and proceed further to hear the accused on the point of sentence.

77. The accused are explained with the observations and findings recorded as above and the punishment which can be awarded for the proved offences.

78. Accused no.1 Lordu Papi Gade Reddy has submitted that he has committed no mistake and he is innocent. He has chosen not

to submit anything on the point of sentence.

79. Accused no.2 has stated that he had no occasion to go to the classroom of the victims, he was not teaching the 10<sup>th</sup> standard students and the complaint is false. As such, both the accused have maintained plea of innocence.

80. Learned Advocate for the accused Mr. Parth Bhanushali has submitted that accused no.1 has recently undergone Angioplasty. His medical condition is not good and therefore, lenient possible sentence may be awarded to both the accused, as both are senior citizens.

81. Learned SPP Mrs. Sulbha Joshi has submitted that the victims have carried a trauma for lifetime and considering their grievance, maximum possible sentence may be awarded to both the accused.

82. School is a pious institute. The children trust their teachers and consider them as guiding light for the life. If this trust is betrayed and when Godlike figure himself sexually tortures, no doubt the victims would carry a trauma for life. Only because of the status the teachers enjoy, the parents did not believe the victims. However, when the illicit acts persisted, when the victims multiplied and assault was made repeatedly on the victims, they raised the voice and ultimately approached the law implementing machinery. For the physically challenged students, with bare support, it was not easy to approach the police and file complaint. The steps taken by them itself

connotes the gravity of the torture they suffered. Therefore, certainly no extraordinary leniency can be shown to the accused while awarding the sentence.

83. The accused are now senior citizens, considering their advance age and considering the facts and circumstances of the case, it would be proper to award a minimum sentence prescribed by the statute along with fine.

84. When the Court acknowledges pains and suffering of the victims due to the illicit acts of the accused, the Court should see that they are adequately compensated, otherwise the justice would not be complete. The Court is empowered to award compensation as per Section 357(1) of the Cr.PC. The amount of compensation should be commensurate with the crime and the illegal consequences ensued. At the same time it is to be kept in mind that the case is tried for the charge of the offence and there is no sufficient material to assess the quantum of compensation. Therefore it would be proper to award compensation to the victims from the fine amount of the accused and to refer the matter to DLSA for award of suitable compensation to the victims under Victim Compensation Scheme.

85. Punishment provided for the offence punishable under Section 10 of POCSO Act is to the extent of 7 years, with minimum of 5 years. For the offence punishable under Section 354 of IPC, the punishment provided is imprisonment to the extent of 5 years with no minimum cap. Therefore, it would be proper to award sentence

under Section 10 of the POCSO Act and no separate sentence be awarded under Section 354 of IPC. With this, I proceed to pass the following order:

**ORDER**

- (1) Accused no.1 **Lordu Papi Gade Reddy (Lourdu Reddy Gade)** and accused no.2 **Dattkumar Bhaskar Patil** are hereby **convicted** under Section 235(2) of the Code of Criminal Procedure, 1973, for the offence under Section 9 punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012, in Crime No.201 of 2014, registered by Dadar Police Station, Mumbai, and both are hereby sentenced to suffer Rigorous Imprisonment for the period of five (5) years and to pay fine of Rs.25,000/- (Rupees Twenty-five thousand only) each, in default to suffer Simple Imprisonment for six (6) months each.
- (2) **Both** the accused are **further convicted** for the offence punishable under Section 354 of the Indian Penal Code, 1860, in Crime No.201 of 2014, registered by Dadar Police Station, Mumbai. However, no separate sentence is awarded for the same.
- (3) **Both** the accused are **acquitted** under Section 235(1) of the Code of Criminal Procedure, 1973 for the offences punishable under Sections 506 and 323 of the Indian Penal Code, 1860, in Crime No.201 of 2014, registered by Dadar Police Station, Mumbai.
- (4) The accused are taken in custody. Their bail bonds stand cancelled. Their sureties stand discharged.
- (5) Out of the fine amount, compensation of Rs.15,000/- (Rupees Fifteen Thousand only) each, be paid to the three victims mentioned in the chargesheet as per Section 357(1) of the Code

of Criminal Procedure, 1973.

- (6) The amount of compensation of Rs.15,000/- per victim is inadequate and an additional compensation may be awarded by the State. For that purpose, the copy of judgment and order be forwarded to the District Legal Services Authority, Mumbai, to consider the case under the victim compensation scheme.
- (7) Order regarding disposal of muddemal property:
  - (i) Article-1: Hard Disk and Article-2: CD, be forwarded to the Competent Authority for destruction as per rule by following due procedure of law, after appeal period is over or in case if the appeal is preferred, subject to its decision, whichever happens later.
  - (ii) Remaining unmarked articles if any, being worthless, be disposed off by following due procedure of law, after appeal period is over or in case if the appeal is preferred, subject to its decision, whichever happens later.
- (8) Both the accused were in custody from 01.07.2014 to 12.09.2014. The said period shall be taken into account for the purpose of Section 433(A) of Code of Criminal Procedure, 1973.
- (9) Both the accused are informed of their right to prefer an appeal against this Judgment and Order before the Hon'ble High Court of Bombay and also their right to avail Legal aid for the same.
- (10) The copy of Judgment be supplied to the accused, free of cost through Jail Superintendent as provided under Section 363(4) of the Code of Criminal Procedure, 1973.
- (11) Issue conviction warrant accordingly.
- (12) Sessions Case No.100381 of 2014 stands disposed of



accordingly.

(13) The record and proceedings be sent to Record Department.



SATYANARAYAN  
RAMJIVAN  
NAVANDER

Digitally signed by  
SATYANARAYAN  
RAMJIVAN  
NAVANDER  
Date: 2025.12.18  
15:40:22 +0530

Date: 12.12.2025.

(Satyanarayan R. Navander)  
Special Judge  
City Sessions Court,  
Gr. Bombay.

Dictated on : 12.12.2025  
Transcribed on : 16.12.2025  
Signed by HHJ on : 17.12.2025

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”		
UPLOAD DATE	TIME	NAME OF STENOGRAPHER
18.12.2025	3.40 p.m.	Bharat Kashinath Gaikwad
Name of the Hon'ble Judge		HHJ Shri Satyanarayan R. Navander (Court Room No.54)
Date of Pronouncement of Judgment/Order		12.12.2025
Judgment/Order signed by P.O. on		17.12.2025
Judgment/Order uploaded on		18.12.2025

***NOTE: Due to some technical difficulty, the judgment could not be uploaded on the CIS of POCSO Special Case No.381 of 2014. The problem was reported to the Computer Department. There upon, the Computer Department gave new case number i.e. POCSO Special Case No.659 of 2014 to this matter. It is therefore, the judgment in POCSO Special Case No.381 of 2014 is uploaded in POCSO Special Case No.659 of 2014 today i.e. on 18.12.2025.***

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