

Bangalore District Court

The State By Jalahalli vs Father Mathew.T.T on 29 March, 2021

IN THE COURT OF XXXIX ADDL.ACMM,
BENGALURU

Present : Sandesh Prabhu.B. BA.L., LL.B.
XXXIX ACMM, Bengaluru,

C.C.No.1271/2007

Dated : On this the 29th March, 2021

Complainant: The State by Jalahalli
Police Station, Bengaluru
(By Assistant Public Prosecutor).
V/s

Accused: Father Mathew.T.T,
S/o Thamas,
r/at C.P.H,
St.Claret school surroundings,
Sharadamba nagara,
M.E.S road, Jalahalli,
Bangalore

(By M/s Tomy Sebastian Associates
Advocates)

Date of Report of Offence	: 17-12-2006
Name of the Complainant	: M.K.Basavaraju
Date of Commencement of recording of Evidence	: 16-01-2010
Date of Closing of evidence	: 19-02-2018
Offences complained are	:U/Sec 354, 506 and 509 of IPC
76	CC1271/2007

Opinion of the Judge : Accused found
guilty

(Sandesh Prabhu B.)
XXXIX ACMM,
Bengaluru

-:: JUDGEMENT ::-

The PSI of Jalahalli PS, Bengaluru has filed charge sheet against the accused for the offences punishable U/Sec. 354, 506 and 509 of IPC.

2. The case of the prosecution in nutshell is as follows :-

The accused was working as principal in St.Claret school situated at Jalahalli and the daughter of the complainant who is CW2 was studying in SSLC in the said school. About one year prior to the filing of complaint, when the daughter of the complainant was studying in 9th standard the accused was summoning CW2 often to his chamber and was observing the PW2 from top to bottom and was saying in vulgar words that

76

CC1271/2007

her chest is small and she should make it big like Surekha teacher. Further when the daughter of the complainant who is CW2 was studying in SSLC, about 6 to 7 months prior to the filing of complaint, the accused was calling CW2 to his chamber with regard to her progress in the education and when the CW2 went to the chamber of the accused he was seeing her from top to bottom and was saying that can I love you, can I kiss you, can I hug you and whether he could marry her. The accused further saying that if he removes the dress of the priest of church he is a common man and further saying to the CW2 that she should walk by

chest forwarding posture and should make inshirt her shirt very tightly. It is the further allegation against the accused that he was checking the school bag of the CW2 and was saying to use whisper pad and thereby outraged the modesty of the daughter of complainant.

Further from 15-09-2006 to 25-09-2006 there was

76

CC1271/2007

school trip to North India and when the CW2 went to the said trip along with other students, the accused had also came to the said trip and when the CW2 along with other students were traveling in the train, on 16-09-2006 when CW2 and 4 were playing cards, the accused came to the said place and sat near to CW2 and told her to teach him the playing of cards and thereafter he touched the thigh and hands of the CW-2.

On next day when the CW2 was alone the accused again called the CW2 and told to her that she should not spread his said act and if she spreads the same he will not issue hall ticket during the examination.

Further on 15-12-2006 even though the CW2 had not committed any mistake the accused told to CW2 to stand outside the class and told that she had already spread the said news and gave threat that he will not issue hall ticket for the examination and he will spread the bad news against CW2 in order to spoil her life. It is

76

CC1271/2007

also the allegation against the accused that he had also given similar sexual harassment to CW3 to 6.

3. Based on complaint lodged by the complainant, police have registered the case against the accused in Cr.no.164/2006 and filled charge sheet against the accused for the offence punishable u/s 354,509,506 of IPC.

4. After filing of charge sheet this court had taken cognizance against the accused for the said offences and in pursuance of the summons accused appeared before the court through his counsel and he was enlarged on bail. Thereafter charge sheet copies were furnished to the accused as contemplated u/s 207 of Cr.P.C. Thereafter heard the learned prosecution and counsel for accused about framing of charge. Since there were sufficient materials to frame the charge against the accused, charges were framed u/s 354, 506
76 CC1271/2007

& 509 of IPC. The sum and substance of the accusation was read over to the accused, his answer to the said accusation was denial and he claimed to be tried. Hence, the prosecution was given an opportunity to establish the guilt of the accused.

5. The prosecution in order to establish the guilt of

the accused it got examined 10 witnesses as PW1 to 10 and got marked documentary evidence as per Ex.P1 to P9. The prosecution has failed to examine CW4 to 7, 11 to 13, 18 to 21 and 23 due to the non availability of the address of said witnesses. Therefore the evidence of said witnesses was dropped as per the order of the court dated 21-04-2018 and 19-10-2019.

6. Heard the arguments of learned prosecution and counsel for accused has filed detailed written arguments.

76

CC1271/2007

7. The points that arise for consideration of this Court are as under :

--:: POINTS ::--

1.

Whether the prosecution proves beyond all reasonable doubts that the accused being the principal of St.Claret school was summoning CW2 who was studying in 9th standard in the said school often to his chamber and was observing the CW2 from top to bottom and was saying in vulgar words that her chest is small and she should make it big like Surekha teacher. Further when the CW2 was studying in SSLC, about 6 to 7 months prior to the filing of complaint, the accused was calling CW2 to his chamber with regard to her progress in the education and when the CW2 went to the chamber of the accused he was seeing her from top to bottom and was saying that can I love you, can I kiss you, can I hug you and whether he could marry her.

The accused further saying that if he removes the dress of the priest of church he is a common man and further saying 76 CC1271/2007 to the CW2 that she should walk by chest forwarding posture and should make inshirt her shirt very tightly. Further the accused was checking the school bag of the CW2 and was saying to use whisper pad with an intention to insult the modesty of CW2 thereby committed an offence u/s 509 of IPC?

2. Whether the prosecution further proves beyond all reasonable doubt that from 15-09-2006 to 25-09-2006 there was school trip to North India and when the CW2 went to the said trip along

with other students, the accused had also came to the said trip and when the CW2 along with other students was traveling in the train, on 16-09-2006 when CW2 and 4 were playing cards, the accused came to the said place and sat near to CW2 and told her to teach him the playing of card and thereafter he touched the thigh and hands of the CW2 and thereby used criminal force on CW2 with an intention to outrage the modesty 76 CC1271/2007 and thereby committed an offence punishable u/s 354 of IPC?

3. Whether the prosecution further proves beyond all reasonable doubt that on 17-09-2016 accused called to CW2 and told her that she should not spread his act and if she spreads his act, he will not issue hall ticket during the examination. Further on 15-12-2006 even though the CW2 had not committed any mistake the accused told to CW2 to stand outside the class and told that she had already spread the said news and gave threat that he will not issue hall ticket for the examination and he will spread the bad news against CW2 in order to spoil her life, committed an act of criminal intimidation so as to cause alarm in her mind and thereby committed an offence punishable u/s 506 of IPC.

4. What Order?

8. The findings of this Court on above points are as under: Point No.1 to 3: In Affirmative 76 CC1271/2007 Point No.4 : As per the final order for the following: REASONS

9. POINT No.1 to 3 : All these points are connected each other and in order to avoid the repetition of the facts and appreciation of the evidence, all these points are taken up together for common consideration.

10. It is the specific case of the prosecution that The accused was working as principal in St.Claret school situated at Jalahalli and the daughter of the complainant who is CW2 was studying in SSLC in the said school. About one year prior to the filing of complaint, when the daughter of the complainant was studying in 9th standard the accused was summoning CW2 often to his chamber and was observing the PW2 from top to bottom and was saying in vulgar words that her chest is small and she should make it big like 76 CC1271/2007 Surekha teacher. Further when the daughter of the complainant who is CW2 was studying in SSLC, about 6 to 7 months prior to the filing of complaint, the accused was calling CW2 to his chamber with regard to her progress in the education and when the CW2 went to the chamber of the accused he was seeing her from top to bottom and was saying that can I love you, can I kiss you, can I hug you and whether he could marry her. The accused further saying that if he removes the dress of the priest of church he is a common man and further saying to the CW2 that she should walk by chest forwarding posture and should make inshirt her shirt very tightly. It is the further allegation against the accused that he was checking the school bag of the CW2 and was saying to use whisper pad and thereby outraged the modesty of the daughter of complainant. Further from 15-09-2006 to 25-09-2006 there was school trip to North India and when the CW2 went to the said trip along with other students, the accused had 76 CC1271/2007 also came to the said trip and when the CW2 along with other students were traveling in the train, on 16-09-2006 when CW2 and 4 were playing cards, the accused came to the said place and sat near to CW2 and told her to teach him the playing of cards and thereafter he touched

the thigh and hands of the CW2. On next day when the CW2 was alone the accused again called the CW2 and told to her that she should not spread his said act and if she spreads the same he will not issue hall ticket during the examination. Further on 15-12-2006 even though the CW2 had not committed any mistake the accused told to CW2 to stand outside the class and told that she had already spread the said news and gave threat that he will not issue hall ticket for the examination and he will spread the bad news against CW2 in order to spoil her life. It is also the allegation against the accused that he had also given similar sexual harassment to CW3 to 6.

76 CC1271/2007

11. The prosecution in order to bring home the guilt of the accused it got examined 10 witnesses out of totally cited 24 witnesses. The PW1 is the complainant and the father of the victim, The PW2 is the victim who deposed about the incident, PW3 is the another victim in CC No.1270/2007 and who also deposed about the alleged act of the accused, PW4 is the mother of the victim who deposed about the incident, PW5 is the student of said school who deposed about the incident, PW6 is the PI who investigated the case and filed charge sheet against the accused, PW7 to 9 are the teachers of the said St.Claret school who deposed about the allegation made against the accused and PW10 is the ASI who registered the case against the accused. Along with oral evidence the prosecution got marked documentary evidence as per Ex.P1 to P9 which includes the complaint, spot mahazar, FIR, statement of witnesses who turned hostile, SMS details issued by BSNL office and report issued by the Administrative 76 CC1271/2007 officer of St.Claret school. As it is stated above the prosecution is failed to examine CW4 to 7, 11, 13, 18, 21 & 23 since they were not found in the address and they were dropped as per the order of the court dated 21-04-2018 and 19-10-2019.

12. Now it is necessary to analyse the oral evidence of prosecution witness. The PW1 is the complainant and father of victim. The said witness in his examination in chief deposed that the CW2 is his daughter and she studied from LKG to SSLC in St.Claret school, Jalahalli. In the year 2006, the accused was the principal of said school. The CW3 to 6 were the friends of his daughter and when her daughter was studying in SSLC during year 2006 she had gone to tour in the month of September 2006. The witness further deposed that after 10 to 15 days his daughter came back from the tour and said that when they were playing cards in the train the accused used to touch her 76 CC1271/2007 body and was talking in vulgar words. The witness further deposed that the accused had pinched to the hips and knees of her daughter. The witness further deposed that on 17-02-2006 his daughter had went to the house of the complainant in CC No.1270/2007 for attending marriage anniversary function and when her daughter did not return till 8.30 PM, he made a phone call to the house of said CW1 in CC No.1270/2007 and the wife of CW1 had picked up the phone call and told that his daughter and other friends crying in a room. The witness further deposed that thereafter he went to the house of said CW1 namely Muralidhar at 9.00 PM and on enquiry his daughter told that the accused had misbehaved with her and other students. The witness further deposed that the accused had told to his daughter and other students that if they spread the said act of accused he will not issue Hall ticket, Character certificate and also will not allow to attend for examination. The witness 76 CC1271/2007 further deposed that he filed complaint against the accused. The witness has identified the complaint given by him. The accused counsel subjected this witness for elaborate cross examination.

13. The prosecution got examined the victim in the alleged incident as PW2. The said witness in her oral evidence has deposed that she was studying at SSLC in the year 2006 at St Clarets school situated at Jalahalli. The CW4 to 6 were also studying in same standard along with her. The witness further deposed that at that time the accused was the principle of said school. The witness further deposed that the accused was giving sexual ill treatment to herself and other girls students when she was in the 9th standard. The accused was often calling to her to come to the chamber and was seeing from top to bottom and was saying that can I love you, can I kiss you, can I marry you. Further the accused was saying that if he wear the coat he is priest 76 CC1271/2007 of the church or otherwise he is a common man and was insisting her to love him. The witness further deposed that accused was saying vulgarly that her chest size is small and she should make it big like Surekha teacher and she should make inshirt of the shirt very tightly. The witness also deposed that when she along with other students were going for playing, at that time the accused was checking her bag and was saying to change the napkins. The witness further deposed that on 15-09-2006 a tour was conducted from the school to Delhi, Manali and Shimla and when she came to know that the accused will not come to the said tour, she along with other students decided to go for tour. The witness further deposed that on 15-09-2006 the accused had also came to railway station but since she along with other students already came to railway station they decided to go to said trip. The witness also deposed that when she along with her friends playing cards in the train , the accused often come to the said 76 CC1271/2007 place and told to teach playing of the cards. The witness further deposed that when she was playing along with one Rashmi and Sumana, the accused came to the said place and told to said Sumana to get up from the said sitting place and thereafter the accused had sat near to her. The witness further deposed that thereafter the accused had touched her hip in bad manner and at that time she resisted for the same and told to behave like a principal. The witness further deposed that thereafter she came out from the said place and thereafter they came back to their house after completing the school trip. The witness further deposed that when the said act of the accused was came to know to all the students, accused started troubling to her. The witness further deposed that the accused was saying that she should not tell the said act of the accused to her parents and if she tells the same he will spread that her character is not good. The witness further deposed that if she tells his said act he will not 76 CC1271/2007 issue hall ticket and also character certificate. Further the accused was giving threat by saying that he will give lesser marks to her.

14. The witness further deposed that on 17-12-2016 there was anniversary of the parents of her friend who is CW3 and she along with CW4 and 6 and other students were attended to the said marriage anniversary and when they were discussing about the said act of the accused, the mother of CW3 came to know about the act of the accused and thereafter the mother of CW3 had informed the said act of accused to the parents of other students. The witness further deposed about lodging of complaint by her father and also the father of CW3 against the present accused. The accused counsel subjected this witness for very elaborate cross examination.

76 CC1271/2007

15. The prosecution got examined PW3 who is another victim in CC no.1270/2007. The said witness in her examination in chief deposed that in the year 2010 she was studying in SSLC at St. Clarets school situated at Jalahalli and CW2, 4 to 6 were also studying in the same standard along with her.

The witness further deposed that the accused was the principal of their school and when she was studying in SSLC she came to know that the accused is behaving indecently with the girls. The witness further deposed that the accused was often telling to come to his chamber and the accused had also told this witness to come to his chamber. The witness further deposed that when she was going to the chamber of the accused he was seeing in bad manner from top to bottom and was talking indecently that what you feel about me, do you love me. The witness further deposed that the accused was checking her bag and was saying to change the napkins. The accused was doing oftenly like that. The 76 CC1271/2007 witness further deposed that on 15-09-2006 a school trip was planned in order to go to Delhi, Manali and Simla and she came to know that the accused will not come to said trip. The witness further deposed that she along with her friends decided to go to said trip and they went to railway station. In total there were 55 students, 3 lady teachers and another teacher were came to railway station in order to go for trip. The accused had also came to railway station even if he told that he will not come for trip. The witness further deposed that when she was going in the train along with other student , she avoided the accused but the accused had called for playing the cards and had told that do you love me, treat him as her boy friend. The witness further deposed that thereafter she told to the accused to behave like principal and at that time the accused indecently put his hand on her hip and at that time she avoided from the clutches of the accused and she went away. The witness further deposed that 76 CC1271/2007 thereafter she informed the said act of the accused to her friends and at that time she came to know that the accused had also behaved indecently with her friend who is CW2. The witness further deposed that the accused was threatening that he will not issue Hall Ticket and Character Certificate if his act is disclosed.

16. The witness further deposed that on 17-12-2006 there was a marriage anniversary of her parents and to the said function CW2, 4 to 6 were also came and when they were talking about the conduct of the accused, the CW4 had heard the same and thereafter her mother had informed the said act of the accused to parents of other students. The witness further deposed about lodging of complaint against the accused. The accused counsel elaborately cross examined this witness.

76 CC1271/2007

17. The prosecution got examined PW4 who is the mother of PW3. The said witness in her oral evidence has categorically deposed about the incident. The said witness has deposed that her daughter who is PW3 was studying in SSLC at St.Clarets school and the accused was principal of the said school. The witness further deposed that on 15-09-2006 her daughter along with other students went for tour and on 26-09-2009 her daughter came back from tour and there was huge changes in the conduct of her daughter. The witness further deposed that her daughter was not talking property and one day when they went outside for meals, at that time her daughter told to her that the principal was giving ill treatment. The witness further deposed that on 17-12-2006 her daughter had called her parents for marriage anniversary function and on said day when all the friends were talking in a room she came to know about the sexual harassment given by the accused. The witness further came to know that the 76 CC1271/2007 accused was oftenly calling the students to come to his chamber and was giving sexual harassment to the students. The witness further deposed that the accused was also threatening that he will not issue Hall Ticket and Character Certificate if they disclose his said indecent act. The witness further deposed that her daughter was

insisting her that she will not go to school if she is sent to school forcibly she will commit suicide. The witness further deposed that thereafter she by discussing with her sisters filed complaint against the accused. The accused counsel subjected this witness for elaborate cross examination.

18. The prosecution got examined PW5 who is the student studying along with victims in said school. The said witness in his oral evidence deposed that the accused was the principal of said St.Clarets school. The witness further deposed that when he was studying in 9th standard and also in SSLC, the accused was calling 76 CC1271/2007 the lady students to come to his chamber and was giving sexual harassment. The witness further deposed that he came to know about the said fact from 3 persons when he was in 9th standard. Further he came to know about the act of the accused from victim herself when he was in SSLC. The witness further deposed that he himself saw that the accused was calling the girl students to his chamber and was talking for very long time. The witness further deposed when he was in 10 th standard on 15th 09th 2006 he along with other students went for trip at Delhi, Shimla and Manali. The accused had also came to the said trip. The witness further deposed that in the said trip the accused was calling to the girl students and was talking the unwanted things with them. The witness further the accused had called CW2 and the accused behaved with her indecently and when she resisted for the same the accused left the said place. The witness further deposed that when they were coming back from trip in train the accused again 76 CC1271/2007 committed the same act with CW2 and other girls. The witness further deposed that he had seen the said act of accused but he is not aware that whether other students have also seen the said act of the accused. The witness has also deposed that after returning from the said trip the principal had asked the opinion and expression about the said trip and he told his experience in good words in order to stop embarrass the principal. The witness further deposed that after returning from said trip the accused has also continued his act towards girls students including the present PW2 and 3. The witness has also deposed that CW1 had made enquiry with him about the said act occurred in train and he had informed the said act of accused to CW1. The witness further deposed that the accused came to know that the CW1 had made enquiry with him about the said act and thereafter the accused had obtained a letter from him. The witness further deposed that after the said incident the accused was creating 76 CC1271/2007 fear by giving punishment and when the parents of the students came to know about the said act of the accused the Association of Hindu Religion Organization had pelt stone to the said school and the accused with the fear that he will be arrested, he absconded for 2 days. The witness further deposed that after the said incident for 1 year the accused was making call and wishing for Birthday in order to avoid giving evidence in future. The accused counsel subjected this witness for elaborate cross examination.

19. The prosecution got examined PW6 who is the PI who investigated the case and filed charge sheet against the accused. The said witness in his examination in chief deposed that he after receiving the case file from CW20, visited the house of complainant and obtained the statement of CW2 and he also obtained the statement of CW3 to 6. The witness further deposed about the drawing of the mahazar in the place 76 CC1271/2007 of incident as per Ex.P2. The witness has also deposed about the recording of statement of CW7, 12 to 16. The witness further deposed about arresting of the accused and releasing him on station bail, obtaining of the call list from BSNL office and obtaining of certificate from the school administration authority relating to the CW2 to 5 who were studying in the said school and filing of charge sheet after completion of the investigation. The

accused counsel subjected this witness for elaborate cross examination. During cross examination of this witness the accused counsel confronted 9 documents as per Ex.D1 to D9.

20. The prosecution got examined PW7 who is the teacher in said school. The said witness in her examination in chief deposed that she is the teacher at St.Clarets school since 1996 and she is aware about the accused and there is allegation against him about the misconduct with students and she had given statement 76 CC1271/2007 before the police. The accused counsel subjected this witness for cross examination.

21. The prosecution got examined PW8 who is the another teacher of said St.Clarets school. The said witness deposed that she is the teacher in said school since 1989 and she was teaching to the students of 9 th standard and SSLC. The witness further deposed that she knows the accused and her students by name Priyadarshini and Mouna had made false allegation against the accused. The prosecution treated this witness as hostile witness and cross examined by suggesting about the act of the accused but the witness has denied the said suggestion put by the prosecution. The accused counsel also subjected this witness for cross examination.

22. The prosecution got examined another teacher of said school as PW9 and the said witness in his 76 CC1271/2007 examination in chief deposed that the accused was the principal of his school and he was the teacher to the 10th standard. The witness further deposed that in the year 2006 after returning from school trip there was news in news paper that the accused had given sexual harassment to the school students and the CW2 and 3 had given complaint against the accused. The accused counsel subjected this witness for cross examination.

23. Lastly the prosecution got examined PW10 who is the ASI who registered the case against the accused. The said witness in his examination in chief deposed about registering of FIR against the accused on the basis of complaint given by the complainant.

24. The prosecution in order to establish the guilt of the accused it should establish that there was assault or use of criminal force to women with intent to outrage her modesty. As per section 354 of IPC the 76 CC1271/2007 prosecution in order to fix liability on the accused it should establish about the following facts.

1. Use of criminal force or assault to any women.
2. Use of said criminal force with intention that it will outrage the modesty of said victim.

25. On careful perusal of section 354 of IPC the intention which also called Mensrea forms an important component in the commission of such an act. The intention to outrage the modesty of a women is the driving force deserve the commission of the offence. The word modesty has perceived under section refers to the universally accepted womanly behavior. The key components required to be establish by the prosecution in order to attract the offence envisaged under said section includes.

1. Aggrieved must be on women.

2. There was a assault or use of criminal force against the aggrieved.

76 CC1271/2007

26. The burden of proof lies on prosecution to prove that the act of accused constituted an assault or use of criminal force as defined in section 350 and 351 of IPC. Therefore on close perusal of the section implies that the intentional use of force or any gesture apprehending the person concerned forms the gist in the commission of said offence. The prosecution must prove that there was an intention or knowledge existed on the part of the accused while committing the said offence and also prove the fact that the women felt that her modesty was outraged would satisfy the necessary ingredients of said offence.

27. The intention and knowledge of the accused forms his course state of mind. They cannot be determined by direct evidence. The intention and knowledge of accused has to be ascertained by looking at the circumstances of the case. It is also to be kept in mind that when a reasonable man looking at the 76 CC1271/2007 circumstances of the case will think that the act of offender was intended to or was known to be likely to outrage the modesty of women.

28. Now in present case it is also the allegation against the accused that he committed the offences punishable u/s 509 of IPC which also speaks about use of any word or gesture of act intended to insult the modesty of women. On careful perusal of the said section also there must be intention to insult the modesty of women by uttering any words or gesture and said gesture or word will insult the modesty of women. By keeping in mind the ingredients above discussed two sections now it is necessary to conclude whether the prosecution is successful in bring home the guilt of the accused.

29. On careful perusal of the entire materials available on record one thing is clear that two students 76 CC1271/2007 have made similar allegation against the accused and two separate cases have been registered against the accused. Now it is necessary to conclude whether the evidence adduced by the prosecution has established the guilt of the accused. As it is discussed above the PW2 and 3 are the victims in the present case as well CC No.1270/2007. The entire case of prosecution mainly stands on the evidence of PW2 who is the victim in the present case and evidence of PW3 who is victim in CC No.1270/2007. Both these witnesses have deposed the same version in both cases. Along with evidence of victim the prosecution has also examined PW5 who is the student who studied along with the victims. The case of the prosecution is also supported by the evidence of PW1 who is father of victim in present case and PW4 who is the mother of the PW3.

30. As it is discussed above the PW1 is the father of the victim and who lodged complaint against the 76 CC1271/2007 accused. The said witness in his oral evidence categorically deposed that on 17-12-2006 is daughter had went to the house of CW3 for the marriage anniversary function and in the said function when the victims and other friends of the victims were talking about the act of the accused, the mother of CW3 came to know about the alleged act of the accused and thereafter she informed the said victim to the present complainant and thereafter he went to the house of CW3 and when he went to the house of CW3 he came to know about the act of the accused and thereafter he filed complaint against the accused. On careful perusal of the entire cross examination of this

witness even though the accused counsel has subjected that he never went to the house of CW3 and false allegation made against the accused but the said suggestion has denied by this witness. On careful appreciation of entire oral evidence of PW1 who is the complainant there is no any 76 CC1271/2007 unshaken evidence deposited by the said witness which is contrary to the version of the prosecution.

31. The prosecution has also got examined PW4 who is the mother of PW3 who is the victim in another case. As it is discussed above the said witness has categorically deposed that how she came to know about the alleged act of the accused. The said witness has been subjected for elaborate cross examination and on careful perusal of the cross examination of this witness the accused counsel himself suggested that on 17-12-2006 there was a marriage anniversary function in her house and also suggested that CW2 to 6 were also present in the said function. From the Suggestion put by the accused counsel itself, one thing is clear that on 17-12-2006 there was anniversary function in the house of this witness and CW2 to 6 were gathered in the said function. Further on careful perusal of entire cross examination of this witness she categorically 76 CC1271/2007 deposed that on the day of the marriage anniversary itself she came to know about the act of the accused which was took place in the train when her daughter along with other students went for trip. Further on perusal of the cross examination of this witness she categorically deposed that on 15-12-2006 her daughter had informed that the accused is not behaving properly with the students. On careful perusal of the entire cross examination of this witness there is no any contradictory evidence which leads to unbelieve the case of the prosecution. This witness in her oral evidence has categorically deposed that she came to know about the act of the accused from PW2, 3 and other friends who gathered in the marriage anniversary function. The said oral evidence of PW4 is not unshaken during her cross examination and therefore there is no hurdle to accept the oral evidence of this witness along with the evidence of victims about the said act of the accused.

76 CC1271/2007

32. Now the most important evidence available to the prosecution is the evidence of PW2 and 3 who are the victims from the act of the accused. The PW2 is the victim in the present case and PW3 is the victim in CC No1270/2007. In an evidence like this evidence of victim plays vital role and therefore the evidence of PW2 and 3 has to be appreciated very carefully. As it is discussed above the PW2 in her examination in chief has deposed about the act of the accused very elaborately and the accused counsel subjected this witness for cross examination. On perusal of cross examination of this witness she categorically deposed that the accused was summoning her to come to his chamber when she was studying in 9th standard and the same was continued in SSLC. Further this witness has categorically deposed that the accused was also summoning to CW4 to 6 to his chamber and was behaving in an indecent manner. Further on perusal of the cross examination of this witness she categorically 76 CC1271/2007 deposed that the other students who are her friends have also told with her about the said indecent behavior of the accused. Further on perusal of the cross examination of this witness the accused counsel has elaborately cross examined about the incident took place in the train when they went for trip. On careful perusal of the entire cross examination of this witness relating to the said incident taken place in the train, the said witness has categorically deposed that the incident was taken place in the train when they went to Delhi as well as when they

returned back. Further on perusal of the cross examination of this witness she categorically deposed that the accused had given sexual harassment to her and PW3 in the said train when they went to Delhi and also when they were returning from the trip. Further on careful perusal of the oral evidence of this witness she categorically deposed that on 17-12-2006 she went to the house of PW3 for marriage anniversary function and in the said function CW4 to 6 were also 76 CC1271/2007 came and when they were talking about the act of the accused the mother of PW3 had heard the same and when mother of the PW3 had informed the said act of accused to her father, thereafter her father had made enquiry with her and lodged the complaint. Further on perusal of the cross examination of PW2 she categorically deposed about the act of the accused which was taken place after returning from the school trip. On careful perusal of entire cross examination of PW2 there is no facts deposed by said witness which takes away the case of the prosecution or it affects the core of the case of prosecution. The oral evidence of PW2 is consistent with her earlier statement and also with the case of the prosecution.

33. As it is discussed above the prosecution got examined PW3 who is also the victim due to the act of the accused. The said witness in her examination in chief has deposed about the all the overt act of the 76 CC1271/2007 accused. On perusal of the cross examination of this witness also she deposed in detailed about the incident which was taken place when she was studying in SSLC. Further on perusal of the cross examination of this witness the said witness in detaile has also deposed about the incident took place in the train to herself and to PW2 when they went for North India trip. On perusal of the said part of the cross examination this witness has categorically deposed that the accused had misbehaved with her when she was going in the train as well as when she was returning from the trip. On careful perusal of cross examination of this witness dated 03-12-2016 she has elaborately stated about the act of the accused and also sexual harassment given by the accused to her and also PW2. Further this witness has categorically deposed that several times the accused had called her and had misbehaved with her. Further this witness has also deposed about the incident which was took place prior to said trip. The 76 CC1271/2007 PW3 has categorically deposed that the accused was often summoning herself and her other friends and was misbehaving with them.

34. Further this witness during her cross examination has categorically deposed that when there was anniversary function in her house, her parents and parents of PW2 and other students came to know about the act of the accused and thereafter her father had lodged complaint against the accused. On careful perusal of entire oral evidence of PW3 there is no any major contradictory evidence which takes away the case of the prosecution. The oral evidence of PW3 is consistent with earlier statement and also consistent with the case of the prosecution.

35. As it is discussed above along with the oral evidence of victims, the prosecution has also got examined PW5 who is the student of same class 76 CC1271/2007 wherein the victims were studying. As it is discussed above the said witness has categorically deposed about the act of the accused prior to the said trip as well as act made by the accused during the said trip. On careful perusal of cross examination of this witness even though the accused counsel in lengthy has cross examined this witness but the oral evidence of this witness does not wash away the case of the prosecution and there is no any major admissions which falsify the case of the prosecution. The oral evidence of PW5

is very much helpful to the prosecution to bring home the guilt of the accused.

36. The accused counsel in his written arguments has pointed out some minor contradictions in the oral evidence of PW2 and 3 who are the victims regarding the act of the accused which was taken place in the train. The accused counsel has pointed out some minor contradictions but the said contradictions pointed out 76 CC1271/2007 by the accused counsel does not take away the case of the prosecution. The alleged incident was taken place in the year 2006 but the PW2 and 3 had given their evidence after lapse of more than 6 years and they might have forgotten some minor facts about the said incident but that itself not enough to conclude that there is doubt in the case of the prosecution.

37. It is settled principle of law that only for minor contradictions in the oral evidence of victims and other eye witnesses the entire case of the prosecution cannot be suspected. It is relevant here to quote the ruling reported in AIR 1983 Supreme Court 1753 □Bhagin bhan □Hirji bhai V/s State of Gujarath □Discrepancy which do not come to the route of the matter and shake the basic version of the witnesses cannot be annexed with undue importance. More so when the all important "probabilities □factor" echoes in favour of the version narrated by the witnesses.

76 CC1271/2007

38. Further it has been held in AIR 1985 Supreme court SC48 □State of UP V/w M.K.Antony □In appreciation of evidence, the approach must be whether the evidence of witness read as whole, appears to have a ring of truth. Once that impression is formed, the court which scrutinize the evidence keeping in view the decencies, draw backs and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenure of the evidence given by him and whether the earlier evaluation of the evidence is shaken as to render it unworthy of belief. Minor discrepancy on trivial matter not touching the core of the case, hyper technical approach by taking sentence torn out of context here or there from the evidence, attaching importance to same technical error committed by the Investigating Officer not going to the route of the matter would not ordinarily permit rejection of the evidence as a whole.

76 CC1271/2007

39. It is also held in AIR 1988 SC 894 □Appa Bhai V/s State of Gujarath, Hon'ble apex court has observed that the court while appreciating the evidence must not attach undue importance to minor discrepancies. The discrepancy which do not shake the basic version of the prosecution case may be discarded. The errors due to lapse of memory may be given least importance. When a doubt arise in respect of certain facts alleged by such witness, the proper course is to ignore that fact until unless it goes into the route of matter so as to demolish the entire prosecution story. The courts however should not believe the evidence of such witnesses all to give if they are otherwise trustworthy.

40. Further it is held in 2003(12) SCC 1693 Shamsuddin V/s State of Madhya Pradesh □The core of evidence has to be seen and not in border line aspect. Minor variations which do not have any effect on the 76 CC1271/2007 credibility of evidence, cannot be basis to discard intrinsic value of the

evidence.

41. It is also held in 2011 in Criminal Law Journal 2162 (SC) State of Uttar Pradesh V/s Nagesh□ Unless discrepancies, contractions, and inconsistencies affect the core of the prosecution case, they cannot be basis to reject their evidence. Normal discrepancy which bound to occur in the deposition of witnesses due to error of observations, error of memory due to mental deposition at the time of occurrence.

42. The principle laid down in the aforesaid ruling aptly applicable to the fact and circumstances of the present case. As it is discussed above the accused counsel has pointed out some minor discrepancy in the oral evidence of victims and eye witnesses but the said minor discrepancies would not discredit their entire testimony and the said contradictions and 76 CC1271/2007 inconsistency does not affect the core of the prosecution case. Therefore the said argument of the counsel for accused is not sustainable.

43. On careful perusal of the cross examination of PW2, 3 and 5 it is one of the defence of the accused that he is a strict principal and when the PW2, 3 and 5 and CW4 to 6 were talking outside after the class, the accused advised them to behave properly and on said ill will the PW2 and 3 through their father had given the present false case. The accused counsel has suggested the said defence of the accused to PW2 and 3 but they have categorically denied the said suggestion put by the accused counsel. The PW5 during his cross examination admitted that he along with 4 male students and 5 female students were talking after the school hours and the accused had advised them not to behave like that. The PW5 further during his cross examination deposed that even though the accused had advised to himself and other students along with PW2 and 3 but they have not taken the 76 CC1271/2007 said advise very seriously. Even though the PW5 had admitted that the accused had advised to behave strictly during the school hours but that itself not enough to conclude that on said ill will the false complaint has been lodged against the accused. No student will make such a serious allegation against the teacher unless the said teacher had acted like that. Merely for the reason that the accused had advised to the PW2 and 3 to behave strictly in the school, it cannot be accepted that for said reason the PW2 and 3 had made false allegation against the accused. On careful perusal of the cross examination of PW2, 3 and 5 the accused counsel is not successful in eliciting any admission from the mouth of said witnesses that since the accused had advised to the victims to behave properly during school hours, they lodged false complaint against he accused. Therefore this court comes to the conclusion that the accused has failed to substantiate his said defense.

44. Further on perusal of the cross examination of PW1 to 5, it is the defence of the accused that one Raghu is running a school by name Mother Theresa school and the 76 CC1271/2007 father of PW2 and 3 are the friends of said Raghu and since there were less students were going to said Mother Theresa school, the said Raghu by colluding with the earlier teacher of St.Claret school had created a false story against the present accused who is the principal of said St.Cloret School in order to create a false impression against the accused and thereby reduce the number of admission of the students to the said school. Even though the accused counsel has suggested the said defence to all the witnesses who supported the case of the prosecution but accused counsel is not successful in

eliciting any such admission in order to prove the said defence. Moreover the accused had not produced any other oral or documentary evidence of substance the said defence. Therefore the said defence raised by accused is also not substantiated by him.

45. The accused counsel in his written argument has stated that except PW1 to 5 the other school teachers who have been examined by the prosecution have not supported its case and they are all turned hostile to to the case of the prosecution and the said fact itself creates doubt about the 76 CC1271/2007 case of the prosecution. As it is discussed above the prosecution has got examined PW7 to 9 who are the teachers in St.Clarets school. The PW7 and 8 have completely turned hostile to the case of the prosecution. The PW9 who is the another teacher of said school in his examination in chief deposed that the PW2 and 3 had made allegation against the accused about sexual harassment and they filed complaint against the accused. The said witness during his examination has deposed that the accused had not misbehaved with PW2 and 3. Even though the PW9 had deposed during his cross examination that there was no such behavior from the accused but there is no elaborate cross examination of this witness that whether this witness was in the same compartment in the said train when the students went for trip. Merely for the reason that the PW9 during his cross examination has deposed that the accused had not misbehaved in the train but his examination in chief cannot be completely ignored since he categorically deposed that the PW2 and 3 had given complaint against the accused about the sexual harassment given by him. Therefore the evidence of PW9 who is one of the teacher of 76 CC1271/2007 said school also helpful to the prosecution in some extent to establish the guilt of the accused. No doubt PW7 and 8 have turned hostile to the case of the prosecution but in general sense it cannot be expected that since the accused is principal of said school and PW7 and 8 being the teachers of said school they might have deposed by supporting the accused with some fear or favour. Therefore even though the PW7 and 8 have turned hostile to the case of the prosecution but entire case of the prosecution cannot be doubted when the victims and another student of same class has categorically deposed about the act of the accused.

46. The counsel for accused in his written argument has stated that the prosecution has not examined CW4 to 6 and 9 to 12 who are also the friends of the victims and also not examined CW12 who is the class teacher of the victims and they are the material witness to the prosecution case. It is further stated in the written argument that the adverse inference could be drawn for non examination of those witnesses. As it is stated above the prosecution has not examined CW4 to 6 and 9 to 12 who are the friends of the 76 CC1271/2007 victims and also class teacher of victim. Now the question to be considered is whether the non examination of those witnesses would seriously affect the case of the prosecution. On perusal of the order sheet it reveals that several times summons and NBW were issued to said witnesses and since they were not in address, the prosecution could not present them before the court for their examination. The prosecution cited those witnesses to give evidence about the act of the accused. No doubt the prosecution could not examine aforesaid witnesses but their statement is similar to the evidence of victims and PW5 who deposed about the act of the accused. It is settled principle of law that quantity of evidence is not much important and it is quality of the evidence to be considered while concluding the act of the accused. As it is discussed above, the evidence of PW1 to 5 who are the victims, eye witness and the parents of the victims is fully corroborate each other and even though the accused counsel elaborately cross examined those witness nothing worth has been elicited which creates doubt about

the oral evidence deposed by victims and PW1, 4 and 5.

76 CC1271/2007

47. The Honb'e Supreme court of India in Manjith Singh and another V/s state of Punjab and another□Crl.Apl.No. 2042/2010 with Crl.Apl.No.2276/2010, it has been categorically held that in a criminal case it is not the number of quantity but the quality of evidence is material. It is further held that it is the duty of the court to consider the trustworthiness of evidence on record which inspires confidence and the same has to be accepted and acted upon and in such situation no adverse inference should be drawn from the fact of non examination of other witnesses. As per the principle laid down in the aforesaid ruling it is clear that adverse inference should not be drawn for the fact of non examination of other witnesses when there is sufficient witnesses already examined by the prosecution.

48. It is also relevant here to quote another ruling reported in (2007) 14 SCC 15 □Namdeo VS State of Maharastra□it has been laid down that neither the legislature nor the judiciary mandate that there must be 76 CC1271/2007 particular number of witnesses to record an order of conviction against the accused. The legal system as always laid emphasis on value weight and quality of witness rather than on quantity, multiplicity or plurality of witnesses.

49. Further it has been held in (2010) 12 SCC 91□Bipin Kumar Mandal VS State of West Bengal, the Honb'le Supreme Court has stated that it is not the quantity but the quality that is material. It is further held that the evidence has to be weighed and not counted. The test is whether the evidence as a ring of truth is cogent, credible, trust worthy and reliable.

50. Further in a reported ruling (2001) 6 SCC 71□State of Himachala Pradesh VS Gnan Chand, it has been ruled that non examination of material witnesses is again not a mathematical formula for discarding the weight of testimony available on record howsoever natural, trust worthy and convincing it may be. The charge of withholding a material witness from the court leveled against the 76 CC1271/2007 prosecution should be examined in the background of the facts and circumstances of each case, so as to find whether the witness are available for being examining in the court and were yet with held by the prosecution.

51. It has been held in another ruling reported in (2001) 6 SCC 145 Takhaji Hiraji V/S Thakore Kuber Singh Chaman Singh, it has been held that if already overwhelming evidence is available and examination of other witnesses only be a repetition or duplication of the evidence already adduced, non examination of such other witnesses may not be material. In such as case the court ought to scrutinize the worth of the evidence already adduced. It is further held that the court of facts must ask itself whether in the facts and circumstances of the case it was necessary to examine such other witnesses, and if so whether such witness was available to be examined and yet was being withheld from the court? If answer be positive then only a question of withdrawing adverse inference may arise. If the witness already examined are reliable and testimony coming from their mouth is unimpeachable, the court can safely act 76 CC1271/2007 upon it, uninfluenced by the factum of non examination of other witnesses.

52. The principle laid down in all the afore quoted rulings aptly applicable to the present case. As it is discussed above the prosecution got examined PW1 to 5 who are the victims, eye witness and parent of the victims. But the prosecution could not examined CW4 to 6, 9 to 12 who are the friends and class mates of the victims and also CW12 who is the class teacher. If the prosecution might have examined those witness, their evidence may be similar to the evidence given by the victim and eye witness. The prosecution has examined the victim and another independent eye witnesses which is trust worthy to relay upon in order to conclude about the act of the accused. Therefore merely on the ground that non examination of aforesaid witnesses adverse inference could not be drawn and the case of the prosecution cannot be doubted. Therefore The said argument of the counsel for accused is not sustainable.

76 CC1271/2007

53. The accused counsel in his written argument has also pointed out that the PW5 has given admission that the accused is a strict principal and he was very strict with school administration, therefore there is no chance of committing the said act by the accused. The counsel for accused has pointed out the admission made by PW5 who is the student and friend of the victims. No doubt the PW5 in his cross examination dated 15-07-2017 has admitted that the accused is a strict principal and was giving punishment if there is any wrong committed by the students. Even though the PW5 has given said admission but it cannot be completely ruled out that a strict person may not act as alleged by the victims. Therefore merely the accused is a strict principle it cannot be concluded that the accused had not acted indecently as alleged by the victims. The victims have categorically deposed about the indident act of the accused and therefore merely on the basis of said admission that the accused is a strict person, it cannot be concluded that the accused had not committed said act when there is credible evidence adduced by the prosecution. Therefore the said argument of the counsel for accused is not sustainable.

76 CC1271/2007

54. The counsel for accused has further stated in his argument about the defect in the framing of charge. It has been stated in the argument that the offence which are allegedly committed in the train beyond the limits of Bangalore during travel to Delhi and from Delhi to Bangalore cannot be investigated and charge sheet could not be filed by police office in Bangalore and this court got no jurisdiction to try the said offences. Further it has been held that the offence which are allegedly committed during North India trouer cannot be set to be the continuation of act of accused which have already been taken place in said St.Claret school. The alleged offences which distinct and different from the alleged commission of the offences at the premises of said school. It is further stated in the written argument that the offences which are allegedly committed during North Indian tour between 15-09-2016 and 25-09-2016 at undisclosed places while the train was moving and when the train was not within the jurisdiction of Bangalore, the said offences are distinct and different from the alleged commission of offences at the premises of said St.Claret school. Further the court should not have taken cognizance 76 CC1271/2007 for the offences alleged to have been taken place during North India tour.

55. On careful perusal of the allegation made against the accused, the alleged act of accused was started when the victim was in 9th standard, the same was continued in 10th standard. Thereafter during North Indian tour on 15-09-2006 and 25-09-2006 and also continued after returning from the said tour. On perusal of averments made in the complaint and also the evidence adduced by the victim and other eye witnesses, it is clear that the act alleged against the accused is continuing in nature.

56. As per the section 178 of Cr.P.C whether an offence is a continuing one or continues to be committed in more local areas, one, it may be enquired into or tried by a court having a jurisdiction over any of such local areas. From careful reading of said section, it is clear that when an offence is continuing one or continues to be committed in more local areas or whether it consists of several acts done in different local areas then the court having jurisdiction 76 CC1271/2007 over any of such local areas got jurisdiction to try the offences. Therefore by applying the said section to the present case, as it is stated above the act of the accused was started when the victim was in 9th standard, the same was continued in 10th standard as well as during North India tour and also after returning from the said tour. Therefore the act of the accused is continuing in nature and even though the accused has committed the sexual harassment to the victim when she went for North India tour, this court got every jurisdiction to try the said offences since the said offence is continuing in nature. Therefore the said argument of the counsel for accused is not sustainable.

57. It is also the argument of the counsel for accused that court should not have framed charge relating to the alleged offence committed during North India tour. The counsel for accused has also drawn the attention of this court over section 218 to 220 of Cr.P.C. As it is discussed above the allegation made against the accused is continuing in nature and as per section 220 of Cr.P.C if any one series of acts so connected together as to form the same 76 CC1271/2007 transaction, more offences than one are committed by the same person, he may be charged with and tried at one trial for every such offence. As per said section it is clear that when the series of acts are connected each other which forms the same transaction and committed by the same person then he may be charged with and tried for the said offences at one trial. As it is stated above the allegation made against the accused is series in nature which connected each other and committed in same transaction and therefore by applying the said section there is no any defect in framing charge against the accused for the offence punishable u/s 354, 506 and 507 of IPC which were committed by the accused right from the 9th standard wherein the victim was studying and also continued till after returning from North India tour. Therefore this court comes to the conclusion that there is no any defect in framing charge against the accused for the offence committed at St. Clare's school as well as the act committed while North India tour. Therefore the said argument of counsel for accused is not sustainable.

76 CC1271/2007

58. It is also stated in the written argument that the father of the victim along with other persons had caused damage to the said St. Clare's school and also Church by pelting stones and criminal case has been lodged against several persons. It is also stated in the written argument that the Investigating Officer who is PW6 has admitted about filing of criminal complaint against several

persons for the damages caused to the school and also the Church and the said FIRs have been marked as per Ex.D1 to D9. It is also stated in the written argument that since the accused had lodged complaint for causing damages to the school and church, as a counter blast the present false case has been filed against the present accused. On perusal of the oral evidence of IO who is PW6, the accused counsel has confronted 2 FIRs which were lodged against several persons and the witness has admitted about the lodging of complaint by the present accused for the damages caused to the school and church. Those documents are confronted and got marked by the accused counsel as per Ex.D1 to D9. On careful perusal of the said Ex.D1 to D9 it reveals that FIR no.166/2006. 167/2006 and 170/2006 were lodged 76 CC1271/2007 after registering of FIRs in the present case. The IO has also filed charge sheet in said 3 FIRs as per Ex.D4 to 6. On careful perusal of said FIRs and charge sheets which are marked as Ex.D1 to D9 it reveals that the school authority have filed 2 complaints against several accused for causing damages to the school and church and the present accused has also lodged the complaint alleged that several persons were restrained him when he came to said St.Claret school on 18-12-2006. On careful perusal of the ExD1 to D9 the said cases were lodged after filing of the present complaint as well as the complaint in another CC no.1270/2007. The said documents clearly shows about the development taken place after lodging the present complaint. On perusal of those documents, the complaint or the victims in the present case or in CC no.1270/2006 are not the accused in those cases lodged by the school authority as per Ex.D1 to D9. Further on perusal of the cross examination of PW1 to 5 the accused counsel made an attempt to elicit that after lodging the complaint by the school authority and the accused as per Ex.D1 to D9, the present complaint has been lodged against the accused but the witnesses have denied 76 CC1271/2007 the said suggestion put by the counsel for accused. As it is discussed above the said 3 FIRs as per EX.D1 to D9 were registered on next day after lodging the complaint by the present victims. Therefore merely for the reason that the accused and school authorities had lodged 3 complaints against several persons for causing damages to the school, that will not effect in any way for the just decision or conclusion of the present case. The accused has miserably failed to establish that as a counter blast to the complaint filed by the accused and school authorities, the victims have filed present false case against the accused who is principal of said school. The documents which are marked as Ex.D1 to D9 clearly reveals about development took place after lodging the present complaint by the victims. Therefore lodging of said 3 complaints by accused and school authorities does not comes on the way to decide he present case. Therefore the said argument of the counsel for accused is not sustainable. On careful evaluation of entire materials available on record the prosecution by examining the victim of present case as well as the victim in CC No.1270-2006 and also by examining independent witness 76 CC1271/2007 has successfully bring home the guilt of the accused. The prosecution has successfully established that the accused used criminal force on the victim in order to outrage her modesty. The prosecution has also established that the accused used word, gesture and act to insult the modesty of victim who is a woman. Therefore this courts comes to the conclusion that the prosecution has successfully established ingredients of section 354 and 509 of IPC.

59. It is also the allegation against the accused that he gave criminal intimidation to the victim that she should not disclose the act of the accused to any body and if she discloses his said act he will not issue hall ticket or character certificate to the victim and he will also give lesser marks in the examination. As it is discussed above the victims in present case as well as the victims in CC

No.1270/2007 have categorically deposed in their examination in chief as well as cross examination that after returning from the North India trip the accused had given criminal intimidation by stating that if the victims disclose the act of accused, he will not issue hall ticket for 76 CC1271/2007 examination and also will not issue character certificate. The said part of the deposition of both victims has not been falsified during their cross examination by the accused counsel either by eliciting any admission from the mouth of said victims that they made false allegation. As per section 503 which speaks about criminal intimidation, in order to establish the said allegation there must be threatening by accused that the any injury to his person, reputation or property with intend to cause alarm to that person. By applying the ingredients of criminal intimidation to the present case, as it is discussed above the victims in their oral evidence has categorically deposed that the accused had threatened them after returning from the North India trip that the victims should not disclose the act of the accused and if they disclose the same, he will not issue hall ticket and character certificate. Therefore by considering the said oral evidence of victims as well as PW5 who is the eye witness it is clear that the accused gave criminal intimidation to the victims by threatening not to disclose the sexual harassment given by him. Therefore this court comes to the conclusion that the prosecution has successfully 76 CC1271/2007 established that the accused had committed the offences punishable u/ 506 of IPC.

60. On careful appreciation of the entire oral and documentary evidence produced by the prosecution this court firmly comes to the conclusion that the prosecution has successfully bring home the guilt of the accused beyond all reasonable doubt. Hence for the said reasons this court answers point no.1 to 3 in affirmative.

61. POINT No.4:☐In view of discussion held on above points, this Court proceeds to pass the following:

☐: ORDER ::☐In exercise of powers conferred under section 248 (2) of Cr.P.C., the accused is found guilty for the offence punishable u/s 354, 506 and 509 of IPC.

The bail bond of the accused and his surety shall stand canceled.

For Hear on sentence .

76 CC1271/2007 (Dictated to the stenographer directly on computer, typed by her, revised and corrected by me and then pronounced in open Court on this the 29th day of March, 2021) (Sandesh Prabhu B.) XXXIX ACMM, Bengaluru HEARING ON SENTENCE The convict by name Father Mathew and his counsel present.

Heard the arguments of counsel for convict and learned prosecution. Perused the records.

Learned counsel for the convict has submitted that he is innocent and he is only the bread earner of his family. It is further submitted that the accused had no antecedent of commission of any offence. It is further submitted that the accused may be released on Probation of Offenders Act.

For contra the learned prosecution has opposed the aforesaid submission of the counsel for convict and submitted that the maximum punishment to be awarded to the convict so that the deterrent message to be sent to the society and like minded people be discouraged from entering into criminal activities.

76 CC1271/2007 This court has considered the applicability of Sec 3 and 4 of Probation of Offenders Act and also sec 360 of IPC to the convict by keeping in mind the object and purpose of said Act. The accused being the principal should mould the behavior of student but the accused being the principle himself committed such a heinous act against 2 girl students. If the accused is released on Probation of Offenders Act, a wrong message will be sent to society and therefore this court is not inclined to extend the benefit of sec.3 and 4 of Probation of Offenders Act to the convict.

The aggravating circumstance of the case is that the accused being the principal of a school took the advantage of his position and subjected victims to sexual harassment. By considering the nature of the offence and act committed by the accused which was continues in nature for a long time, the punishment must be just in all circumstances. Having regard to the fact that the convicted must be sentenced according to law and the need to generally deter others who might be like minded for committing similar offences. The primary sentencing consideration here is punishment, deterrence, both personal and general, denunciation of 76 CC1271/2007 the conduct and promotion of respect for the rule of law.

The accused is found guilty for the offence punishable u/s 354 of IPC. The accused had committed the act in the year 2006 and the punishment prevailing at that time should be made applicable. Prior to Criminal Law Amendment Act 2013, the punishment u/s 354 of IPC is imprisonment of either description for a term which may extent to 2 years or with fine or with both. By considering the present age of the accused and he being the first offender to the said offence, considering the nature of the offence and circumstances of the case, it is proper to impose one year simple imprisonment and with fine of Rs.5,000/□for the offence punishable u/s 354 of IPC.

Similarly the accused also found guilty for the offence punishable u/s 509 of IPC and prior to the criminal law Amendment Act 2013 the punishment for the offence committed u/s 509 of IPC is simple imprisonment for a term which may extent to 1 year or with fine or with both. By considering the nature of the offence and circumstances of the case, it is proper to impose 6 months imprisonment with fine of Rs.5,000/□for offence punishable u/s 509 of IPC.

76 CC1271/2007 Further the accused is also found guilty for the offence punishable u/s 506 of IPC and the punishment for criminal intimidation u/s 506 of IPC is punishable with imprisonment either discrimination for a term which may extend to 2 years, or with fine or with both. The accused not only committed the sexual harassment and also gave criminal intimidation not to disclose his said act. By considering the said fact and circumstances of the case, it is proper to impose 6 months simple imprisonment and fine of Rs.3,000/□for the offence punishable u/s 506 of IPC. Considering all the pros and cons, lenient sentence of simple imprisonment as stated above with fine will suffice the ends of justice. Hence this court proceed to pass the following ORDER Acting u/s 248(2) of Cr.P.C the convict is hereby sentenced as follows.

For the offence punishable u/s 354 of IPC, the convict is sentenced to undergo simple imprisonment for 1 year with fine of Rs.5,000/□ In default to pay the fine amount the convict shall undergo simple imprisonment for 2 months.

76 CC1271/2007 For the offence punishable u/s 509 of IPC, the convict is sentenced to undergo simple imprisonment for 6 months and shall pay a fine of RS.5,000/□ In default to pay the fine amount, the convict shall undergo simple imprisonment for 2 months.

For the offence punishable u/s 506 of IPC, the convict is sentenced to undergo simple imprisonment for 6 months and shall pay a fine of Rs.3,000/□ In default to pay the fine amount, the convict shall undergo simple imprisonment for 1 months.

Out of total fine amount of Rs.13,000/□a fine amount of Rs.10,000/□shall be paid as compensation to the victim who is PW2 (Priyadarshini) u/s 357 of Cr.P.C. The remaining fine amount of Rs.3,000/□shall be remitted to the state exchequer after recovery from the convict.

The substantial sentence of imprisonment of convict shall run concurrently.

76 CC1271/2007 Let a copy of judgment be given to the convicted immediately free of cost as per provision of section 363(1) of Cr.P.C. The convicted person is also informed about his right of appeal against the judgment and order of conviction and sentence.

(Sandesh Prabhu B) XXXIX ACMM , Bengaluru ANNEXURE

1. Witnesses examined on behalf of Prosecution PW□1 : Basavaraju, S/o Kalashetty PW□2 : M.B.Mouna, D/o Basavaraju PW□3 : Priyadarshini, D/o Muralidhar PW□4 : Sharada, W/o Muralidhar Kakshman Dandagi PW□5 : Subhash, S/o Prakash PW□6 : Srinivas, S/o Erappa PW□7 : Vinishya, W/o Haripransis PW□8 : Salijosh, S/o Joseph PW□9 : Kumar, S/o Devaraj PW□10 : Anantharamayya, S/o Daddayya

2. Documents exhibited on behalf of Prosecution 76 CC1271/2007 Ex.P.1 : Complaint Ex.P□1a : Signature of PW1 Ex.P.2 : Mahazar Ex.P2a : Signature of PW2 Ex.P2b : Signature of CW20 Ex.P3 : Letter to PI Ex.P.4 : SMS details Ex.P4a : Signature of PW6 Ex.P5 : SMS details Ex.P5a : Signature of PW6 Ex.P6 : SMS details Ex.P6a : Signature of PW6 Ex.P7 : Letter written by administration of St.Clarets school

3. Material objects exhibited on behalf of prosecution NIL

4. List of witnesses on behalf of Defence NIL

5. Documents exhibited on behalf of Defence Ex.D1 : FIR Ex.D2 : Letter written to PI Ex.D3 : Charge sheet Ex.D4 : FIR Ex.D5 : Letter written to PI 76 CC1271/2007 Ex.D6 : Charge sheet Ex.D7 : FIR Ex.D8 : Complaint Ex.D9 : Charge sheet (Sandesh Prabhu B.) XXXIX ACMM, Bengaluru