

State By Koramangala Police vs Abhishek Malani on 24 February, 2020

BEFORE THE CHILD FRIENDLY COURT,
BENGALURU URBAN DISTRICT.

Dated this the, 29 th day of January, 2020.

Present: SMT.R.SHARADA,B.A. M.L
LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55]
SITTING IN CHILD FRIENDLY COURT,
BENGALURU URBAN DISTRICT.

SPL CC NO. 333/2015

COMPLAINANT: State by Koramangala Police,
Bangalore City.
(By Learned Special Public Prosecutor)

-Vs -

ACCUSED: Abhishek Malani,
Son of Bhagirath Malani,
Aged 23 years,
Residing at No.391, 2nd Floor,
1st 'E' Main, Koramangala 8th Block,
Bangalore.

Permanent Resident of:
No.3-B, Darp Narayana Tagore Street,
Bada Bazaar, Kolkatta,
West Bengal-700006.

[By Advocate Sri.A.Ravishankar]

2

Spl CC No.333/2015

- | | | |
|----|-------------------------------|------------|
| 1. | Date of commission of offence | 10.4.2015 |
| 2. | Date of report of occurrence | 10.4.2015 |
| | of the offence | |
| 3. | Date of arrest of accused | 10.04.2015 |

Date of release of the accused on bail	25.04.2015
Period undergone by the accused in the judicial custody	15 days.
4. Date of commencement of evidence	20.2.2016
5. Date of closing of evidence	22.8.2019
6. Name of the complainant	Suveer Gupta, complainant as well as the father of the victim girl
7. Offences complained of [As per charge-sheet]	Secs. 120(B), 354(A) of IPC and under Secs. 8, 9(f) and 10 of POCSO Act 2012.
8. Opinion of the Judge	Acting under Sec.235(2) of Cr.P.C, I hereby convict the accused for the offence punishable under Sec.10 of POCSO Act 2012.
3	Spl CC No.333/2015

JUDGEMENT

The Police Inspector, Koramangala police station has filed charge-sheet against the accused for the offences punishable under Secs. 120(B), 354(A) of IPC and under Secs. 8, 9(f) and 10 of POCSO Act, 2012.

2. The brief facts of the prosecution case is that, the accused is running AIM Global Education Tuition Institution at 4th Block, 8th Main, Building No.561, 1st Floor coming within the jurisdiction of Koramangala police station, Bangalore wherein CW2/ victim girl aged 16 years was taking tuition in Mathematics, the accused being the tuition teacher used to send tuition schedules through the mobile phone of CW5 to the victim girl. On 10.4.2015 with an intent to outrage the modesty of the victim girl, the accused sent a message to the mobile of CW5 that on that day the schedule time for tuition is fixed from 12 P.M., to 2 P.M., because of which the victim girl came to the tuition at 12 P.M., the accused instead of taking tuition in the classroom took the victim girl to his cabin, kissed her, touched her body, dragged her by keeping his hands on her thighs and committed aggravated sexual assault on the victim girl. Hence, the accused has committed the offences punishable under Sec.354(A) of IPC and Secs. 8 and 10 of POCSO Act, 2012. Initially on the basis of the complaint

lodged by the complainant who is none other than the father of the victim girl that, the accused has outraged the modesty of the victim girl and committed aggravated sexual assault, the complainant police have registered a case against the accused in Cr.No.231/2015 for the offences punishable under Sec. 354(A) of IPC and Secs. 8 and 10 of POCSO Act, 2012 and commenced investigation and continued with the investigation by arresting the accused and taking him to remand and remanding him to the judicial custody. After completion of investigation, the Investigation Officer has submitted charge-sheet against the accused for the above stated offences.

3. During the course of investigation the Investigating Officer has arrested the accused on 10.4.2015 thereby he was remanded to the judicial custody. Thereafter as per the Orders of this court dated: 25.04.2015, the accused was released on bail. As per the provisions of Sec.207 of Cr.P.C, copies of the charge- sheet furnished to the accused. Accordingly charge is framed, read over and explained to the accused, he pleaded not guilty, claims to be tried. Accordingly, the trial is fixed, summons issued to the prosecution witnesses.

4. The prosecution has examined 11 witnesses as PWs-1 to 11 and got marked documents as Exs.P1 to P34 besides marking MO-1 ie., DVD . Thereafter Statement of the accused recorded under Sec.313 of Cr.P.C. The accused has denied all the incriminating evidence told to him. Further he submitted his written statement as provided under Sec.313(5) of Cr.P.C, but, he has not examined any witnesses on his behalf, but he has got marked the documents at Exs.D1 to D49.

5. Heard the arguments of the learned Special Public Prosecutor and the learned counsel for the accused. On perusal of the oral and documentary evidence, at this stage, following Points arise for my consideration:

1. Whether the prosecution proves that, the accused is running AIM Global Education Tuition Institution at 4th Block, 8th Main, Building No.561, 1st Floor coming within the jurisdiction of Koramangala police station, Bangalore wherein CW2/ victim girl aged 16 years was taking tuition in Mathematics, the accused being the tuition teacher used to send tuition schedules through the mobile phone of CW5 to the victim girl. On 10.4.2015 with an intent to outrage the modesty of the victim girl, the accused sent a message to the mobile of CW5 that on that day the schedule time for tuition is fixed from 12 P.M., to 2 P.M., because of which the victim girl came to the tuition at 12 P.M., the accused instead of taking tuition in the classroom took the victim girl to his cabin, kissed her, touched her body, dragged her by keeping his hands on her thighs and thereby outraged the modesty of CW2/ victim girl thereby the accused has committed an offence punishable under Sec.354(A) of IPC?

2. Whether the prosecution further proves that during the same period, time and place, the accused kissed the victim girl with a sexual intent kissed her, touched her body, dragged her by keeping his hands on her thighs, and committed sexual assault on the victim girl thereby the accused has committed an offence as defined under Sec.7 of POCSO Act 2012 punishable under Sec.8 of the said Act?

3. Whether the prosecution further proves that, the accused being tuition teacher running AIM Global Education tuition Institution, knowing that the victim girl was a minor with sexual intent, during the same period, time and place, kissed her, touched her body, dragged her by keeping his hands on her thighs, and committed aggravated sexual assault, thereby the accused has committed an offence as defined under Sec.9(f) of POCSO Act 2012 punishable under Sec.10 of the said Act?

4. What Order?

6. My findings on the above points are as under:

Point Nos.1 and 2: See the final Order Point No .3: In the AFFIRMATIVE Point No.4:
As per the final order, for the following:

REASONS

7. POINT NO.3:- During the course of arguments, the learned Special Public Prosecutor has submitted that the complainant police has filed charge-sheet against the accused for the offences punishable under Sec.354(A) of IPC and Secs. 8 and 10 of POCSO Act, 2012. In order to prove the case of the prosecution, totally 11 witnesses are examined as PWs-1 to 11 and 34 documents are marked as Exs.P1 to P34, besides marking MO-1 ie., the DVD. The evidence of PWS-2 , 3 and 4 is in corroboration with each other they have spoken clearly with respect of the crime committed by the accused on the Victim girl though their evidence is subjected for lengthy cross-examination by the defence counsel but they failed to elicit any single piece of evidence to disprove or demolish the prosecution case. The Doctor who is examined as PW1 has deposed before the court about the treatment he had given to the Victim girl on 10.4.2015 at about 3 to 4'o clock in the afternoon and he found injury her at left shin. This evidence is not disputed by the defence counsel. The evidence of Investigating Officers also support the case of the prosecution. PW6 who is the Receptionist in the Tuition Institute of the accused so naturally she turns hostile to the prosecution because she is interested with the accused, thereby, much reliance need not be given on her evidence. Of course there are certain discrepancies occurred in the evidence of the Victim girl as well as her parents. But it is very natural and bound to occur small discrepancies in the evidence of the witnesses who depose before the court after a long gap of time from the date of the alleged incident. But these discrepancies do not go to the root of the prosecution case, thereby, they cannot be taken into consideration while passing final adjudication of the matter. Further he substituted as per Sec.29 and 30 of POCSO Act 2012 there is a presumption that the accused for having committing the offence against the Victim girl as alleged by the prosecution and he has culpable mental state to that extent. Of course this presumption is rebuttable but the defence has failed to rebut the presumption. On this ground also, the accused is liable for conviction. Further, he relied upon decisions reported in :

(1) AIR 1986 SC 1099 held between M/s.Sodhi Transport Co., and another Vs. State of UP and another. (2) AIR 1961 SC 1316 held between Kundan Lal Rallaram Vs. Custodian, Evacuee Property, Bombay. (3) AIR 1959 MADRAS 166 held between

Public Prosecutor Vs. A.Thomas.

(4) AIR 1958 SC 22 held between Khushal Rao Vs. State of Bombay (5) LAWS (KER) 2018 (7) 726, Crl.L.J (2018) 4157 held between Sujith Vs. State of Kerala.

(6) 2018 Crl.L.J 4226 Madras High Court held between Dashwanth Vs. State.

(7) Criminal Appeal No.147/2017 High court of Bombay held between Laxmikant Kukarni Vs. State of Maharashtra. (8) AIR 1991 SC 207, 1991(1) SCC 57 held between State of Maharashtra and another Vs. Madhukar Narayan Mardikar. (9) 2019 Cr.L.J 3541 held between Independent Thought Vs. Union of India.

(10) 2000 Crl.L.J 1793, 2000(4) SCC 75 held between State of Karnataka Vs. Krishnappa.

(11) AIR 1999 SC 3544 held between Rammi alias Rameshwar Vs. State of M.P, Bura alias Sajjan Kumar V/s. State of M.P (12) 2012 Crl.L.J 3005 held between Jugendra Singh Vs. State of UP.

(13) 2014 Crl.L.J 1830 held between Ashok Debbarama alias Achak Debbarama Vs. State of Tripura. (14) AIR1973 SC 2622 held between Shivaji Sahebrao Bobade and another Vs. State of Maharashtra. (15) Criminal Appeal No.512/2019 dated: 6.1.2020 held between Surinder Kumar Vs. State of Punjab.

Basing on those decisions, the learned Special Pubic Prosecutor submitted that, the prosecution has successfully proved the guilt of the accused thereby he is liable for conviction.

8. Per contra, the learned counsel for the accused submitted that the prosecution has miserably failed to prove the guilt of the accused beyond all reasonable doubts because the contents of the Complaint-Ex.P17 do not tally with the evidence of the prosecution witnesses mainly the Victim girl and her parents. There are major discrepancies in their evidence. Actually the accused who was running Tuition institution has allowed the Victim girl to attend certain classes accordingly on 8.4.2015, when the Victim girl was in the class at that time, the accused had given some work to her but the Victim girl has not followed the instructions given by the accused despite eating snacks with her fellow student. When the accused has noticed this, he shouted on the behaviour of the Victim girl further he told that, if she continues the same, he will not allow her to continue the tuitions. This incident made PWS-2- to 4 to take revenge against the accused. According the parents of the Victim girl heeded to the words of their daughter and given a false complaint against him. Further he submitted tat, of course, in POCSO Act, 2012 under Secs. 29 and 30 there is a presumption but, it is rebuttable by the accused. The accused can rebut that presumption either by way of leading defence evidence or by subjecting the material prosecution witnesses for cross-examination. In the present case the accused has cross-examined all the witnesses of the prosecution thereby, the prosecution cannot take shelter under Secs. 29 and 30 of POCSO Act, 2012 . Further he submitted that, according to the prosecution case on 10.4.2015 the alleged incident had happened because of that

incident, the Victim girl had become dull and scared for about many days. The evidence of the mother of the Victim girl clearly shows that the Victim girl was still under depression and the Victim girl could not sleep alone. But these facts are contrary to the photographs produced by the defence which are marked as Exs.D1 to D48. As per the photograph, on the very next day of the incident, the Victim girl had attended one birthday party, and in that photograph she looks very normal and enjoying the party. These things show that, there was no such crime had taken place by the accused against the Victim girl as alleged by the prosecution. The accused is innocent of the alleged offences. Due to this incident the accused could not be able to run his tuition institution thereby, he had suffered monetary loss and mental agony. Considering all these facts and circumstances of the case and uncorroborated evidence of the prosecution witnesses, the major contradictions occurred therein the accused is entitled for acquittal. In support of his arguments the Learned counsel for the accused has relied upon the following decisions reported in (1) Criminal Appeal No. 22/2017 held between Sadhu Vs. State of Maharashtra.

(2) 2019 SCC Online Ker.738 held between Joy Vs. State of Kerala.

(3) 2018 SCC Online Bom 1280 held between Sagar Dinanth Jadhav Vs. State of Maharashtra.

(4) 2019 SCC Online Cal.1815 held between Subrata Biswas Dhaniram Baraiye Vs. State of Maharashtra.

(7) (2011) 6 SCC 279 held between A.Shankar Vs. State of Karnataka.

(8) (2010) 9 SCC 189 held between Babu Vs. State of Kerala. (9) Special Leave Petition (CRL) No.2302/2017 held between Shafhi Mohammad Vs. The State of Himachal Pradesh. (10) ILR 1993 KAR 3035 held between Harikumar Vs. State of Karnataka.

With this, the learned counsel for the accused prays to acquit the accused in the interest of justice and equity.

9. I have perused the oral and documentary evidence furnished by the prosecution before this court. The prosecution in order to prove its case has examined as many as 11 witnesses, out of them, PW1/CW7 is the Doctor who has examined the victim girl and given Certificate as per Ex.P1. PW2/CW5 is the mother of the victim girl. PW3/CW2 is the victim girl. PW4/CW1 is the complainant/ father of the victim girl who set criminal law into motion by filing the complaint as per Ex.P17. PW5/CW8 is the owner of the house wherein the accused was residing as a tenant and conducting tuition classes in the said house. PW6/CW6 is the Administrator and Receptionist of AIM Global Institution run by the accused. PW7/CW3 is the witness to the Mahazar as per Ex.P23. PW8/CW9 is the Superintendent of Customs who has issued Incorporation Certificate to the accused to start the said Educational Institution. PW9/CW10 is the Woman PSI who has deposed about recording the statement of the victim girl. PW10/CW11 is the PSI who is one of the Investigation Officers of this case and deposed to have conducted preliminary investigation and PW11/CW12 is the Police Inspector/ Final Investigation Officer of this case and deposed to have submitted charge-sheet to this court against the accused. The learned Public Prosecutor has also got

marked the following documents in support of his case:

Ex.P1 is the Medical report of the victim girl. Exs.P2 to P13 are the Messages. Ex.P14 is the Certificate. Ex.P15 is the Complaint. Ex.P16 is the statement of the victim girl given to the Learned Magistrate under Sec.164 of Cr.P.C. Ex.P17 is complaint of PW4. Ex.P18 is the further complaint. Ex.P19 is the True copy of the birth certificate of the victim girl. Ex.P20 is the Passport of the victim girl. Ex.P21 is the statement of PW5. Ex.P22 is the statement of PW6. Ex.P23 is the Mahazar. Ex.P24 is the Letter. Ex.P25 is Form No.ST-1. Ex.P26 is Form No.ST-2. Ex.P27 is the FIR. Ex.P28 is the Form ST-2 pertaining to the accused. Ex.P29 is the Lease Agreement. Ex.P30 is the Rental Agreement. Ex.P31 is the Letter dated: 27.9.2015. Ex.P32 is the Long Note Book . Ex.P33 is the PF No.55/2015 dated: 11.4.2015 and Ex.P34 is the Election ID card of the accused.

10. On the other hand, the learned defence counsel has produced the documents in support of his defence: Exs.D1 to D48 are the Photographs and Ex.D49 is the Statement of PW2 given to the complainant police under Sec.161 of Cr.P.C.

11. Now coming to the evidence given by the above referred prosecution witnesses , I would like to take up firstly the evidence given by PW4 being the father of the victim girl is the complaint who set the law into motion by filing a complaint to the concerned police as per Ex.P17 based on the version given by PW3 stating that on 10.4.2015, his daughter/ PW3 went to the tuition between 12 P.M., to 2 P.M., to the tuition institution of the accused and on that day at about 1.30 P.M., when he returned home for his lunch, his wife PW2 was in the house, at about 1.45 P.M., his daughter/ PW3 came weeping with frightened mood then they consoled her and when asked PW3 as to what happened PW3 stated to had told them that the accused sexually abused her in his chamber by initially asking her whether she has any boyfriend and is in relationship with them and whether her parents like it and told her that he will take her for dinner on her birthday and if she do not agree for it, he will stop giving tuition to her by then the accused received a phone call and he went out of the chamber receiving his call, then she started sending message to her mother to inform her the inconvenience she suffered, but by the time she was completing to send the message, the accused returned to the chamber but she could not send the message to her mother and the victim girl further stated to had told her parents that the accused went behind her chair, hugged her from her backside, kissed on her cheeks and she being afraid of it, attempted to avoid by taking her body backside then the accused moved from front and attempted to kiss to her lips then she withdrew herself to backside then the accused lied his hands on her thighs and then she pushed the accused and left the chamber, then while she was coming from the accused chamber runningly she saw the accused was following her then she with further fear while moving fast, her leg hit to the staircase cement slab and suffered an injury.

12. PW4 in the complaint further stated that then himself and his wife-PW2 went to the accused Tuition Centre, did not find the accused then they talked to his receptionist who told them that the accused has gone out and when PW4 requested the receptionist to call the accused and stated the accused after receiving the telephone call from the receptionist returned to his institute and when

this witness questioned the accused about the act complained by his daughter, the accused stated to had confessed by holding his legs and requested for pardoning him. The witness/ complainant further thinking that the accused cannot be excused stated to had taken the accused to the concerned police and given a complaint as per Ex.P17 along with the accused.

13. PW4 further in his evidence in the witness box reiterated the same set of version as given in the complaint repeating that the accused on 10.4.2015 calling the victim girl for tuition sexually misbehaved with her and therefore he had given the complaint to the police by producing the accused before the police along with his wife-PW2.

14. PW2 is the wife of PW4 has also in her evidence in the witness box verbatim spoken to the story as conveyed through the complaint-Ex.P17 and also in total corroboration with the testimony of PW4 stating in this accused being the tuition teacher of PW3 on 10.4.2015 between 12 P.M., to 2 P.M., sexually abused PW3 by touching her inappropriately and that was conveyed to them by her daughter. PW2 further deposed that when she was in the police station along with her husband/ PW4, she received a telephone call from her daughter/ PW3 complaining pain in her leg about the injury she suffered while running out from the premises of the accused. Therefore she [PW2] went back to her house and took PW3 for treatment to PW1 a Doctor and got her treated the injuries PW3 had suffered.

15. PW1 the Doctor has stated to had treated the victim girl/ PW3 on 10.4.2015 in between 3.00 P.M., to 4.00 P.M., for the injuries on her left shin, examined her and stated that injury was measuring 4 X 5 c.m., which was reddish and abruise injuries and said to had given a Certificate as per Ex.P.1.

16. PW3 the victim girl in her evidence during the trial before this court has stated that on 10.4.2015 after receiving Message of tuition for her to her mother's phone, from the tuition centre, she went to the tuition centre but there were no other students, saw the receptionist of the tuition centre in her chair. Then she went and sat in the class room but the accused told her that he will take the class to her in the cabin therefore she went and sat in the cabin of the accused.

17. It is her further evidence that she was the only student then the accused taught her for sometimes then asked her some unconcerned questions whether she has boy friend and whether he can take her out for dinner for which she got frightened by then the accused received a phone call he went outside the chamber to attend the call and she was to send a message to her mother about the experience she underwent by then, the accused returned to the chamber then she kept her mobile in the bag as she could not forward the message. It is further stated by PW3 that the accused came from behind of her chair , hugged her over all shoulders, kissed on her right cheek, she got frightened and prevented the accused then the accused coming to her front side and attempted to kiss on her lips, when she stopped that attempt, the accused coming to her side and put his hand on her thighs for which she pushed the accused and came out running for which the accused was telling sorry and stated while she was coming running, her left leg knee portion hit against the staircase wall and stated to had returned home and complained to her parents. The witness also stated that her parents went to the Institution of the accused to question and deposed to had taken treatment

by going to the Hospital of PW1 along with her mother and further stated to had given a detail report in this regard to the police as per Ex.P15 and identified her signature as per Ex.P15(a) and deposed to had given a Statement before the Learned Magistrate under Sec.164 of Cr.P.C as per Ex.P16.

18. PW5 was the landlord of the premises where the accused was running a tuition center as the said fact is not in dispute, I do not find any necessity in going detail with the version of this witness.

19. PW6 is said to be the Administrator in the Institution of the accused. In her evidence she has admitted that, she was the administrator of the Institution of the accused was doing counselling class scheduling, interacting with the teachers and students. She stated that they were sending phone message or phone calls to the students informing them the timings of the tuition classes and further sated that the police having had visited the building and enquired about the incident , the fact that on 10.4.2015 phone message was sent to the mother of the victim girl calling her daughter for tuition in the afternoon and that the victim girl in response to that message gone to the Institution is admitted by the defence and that is also the version of PWS-2 to 4 which also do not call for any evaluation.

20. In the cross-examination by the learned counsel for the accused the witness [PW6] has admitted that she remains on duty from morning till evening and she has further admitted as on the date of the incident, one more student namely Chethan who had come for tuition but he declined to come on that day and that the victim girl on the date of incident went away from the institution at 1.45 P.M. the witness in the cross-examination by the learned defence counsel has stated that the cabin of the accused is covered with translucent glass and when the lights inside the cabin is on, one can see from outside cabin. The witness further to the suggestion of the learned defence counsel that the victim girl on 10.4.2015 after closing the tuition class had asked this witness the timings of the next day. She had told to come at the same time. The witness further stated that whenever the accused used to be inside the cabin, he puts the lights on and anyone can see from the outside the happenings inside the chamber. These are the evidence of PW6.

21. PW7 in his evidence has deposed that, he has seen the building where the incident has taken place, the police have shown the building to him, the police had secured him near the said building due to some enquiry about a girl, on that day, the police had also brought the accused along with them, He has identified the accused who was standing before the court. He further has deposed that, the police have told him about the incident that the victim girl had gone to the tuition and the accused had forcibly tried to have contact with her, he can tell about the place of incident that it was a cabin, on that day, the police took out a paper from the said cabin, the Mahazar is in Ex.P23 and he put his signature in Ex.P23(a). This witness was cross-examined by the learned counsel for the accused. In his cross-examination, he has stated that, on 11.4.2015 he had gone to Koramangala police station at 10.30 A.M., as his friend had called over phone and had asked him to come to the police station as there was some major problem and he wants to go to that spot and to sign. His friend's name was Anand. They all went to the spot and the police wrote Ex.P23. He has denied that he had not gone to the spot and the police have not conducted mahazar and the mahazar was written in the police station are also denied. He has also denied that as per the say of the police, he is

deposing before the court.

22. PW8 in her evidence has deposed that, on 14.4.2015 the Koramanagala police sent a requisition letter to her, requesting her to give ST-1 and ST-2, so, she took out the printout of ST-1 and ST-2 and through a Covering letter she sent it to the Investigation Officer on 17.4.2015, the said covering letter is marked in Ex.P24 and she put her signature which is marked in Ex.P24(a), along with Ex.P24 she has also sent ST-1 and ST-2 to the Investigation Officer and the said ST-1 and ST-2 are marked in Exs.P25 and P26. The originals of Exs.P25 and P26 were issued to the accused during the year 2013 as per his requisition

23. PW9 is the Woman PSI. In her evidence before the court, she has deposed that, on 10.4.2015 on the requisition of the Police Inspector of Koramangala police station she went to the said station to record the statement of the victim girl. So she went to the house of the victim girl situated at 6 th block, Koramangala, there the parents of the victim girl were also present, she recorded the statement of the victim girl in the presence of her parents. She has further deposed that, at that time, the victim girl told that the accused while taking tuitions misbehaved with her and the victim girl herself has prepared the statement by herself in her house and handed over to the witness, the statement of the victim girl is marked in Ex.P15 and she put her signature in Ex.P15(b) and the signature of the victim girl is in Ex.P15(a). Thereby this witness has performed her statutory duties. This witness was cross- examined by the learned counsel for the accused. In her cross- examination, she has denied that she had not gone to the house of the victim girl to record her statement. She has further denied that, she has prepared Ex.P15 in the police station itself. She has also denied that, she is giving false evidence in the court.

24. PW10 is the Preliminary Investigation Officers of this case. In his evidence has deposed that, on 10.4.2015, when he was incharge of the station, CW1 appeared before him at 5.30 P.M., and lodged a complaint, he received the said complaint and registered it in Cr.No.231/2015 and sent the FIR to the concerned court and copy of the same to his higher officers, the Complaint is marked in Ex.P15 and his signature is marked in Ex.P15(a), the FIR is marked in Ex.P27 and his signature is marked in Ex.P27(a), at the time of lodging the complaint, CW1 had also brought the accused along with him and produced before him. He has further deposed that, on 11.4.2015, he had secured CW10 of Audugodi police station to his station to record the statement of the victim girl, on the same day, CW10 came to his station and recorded the statement of the victim girl, at that time, the mother of the victim girl was also present, after recording the statement of the victim girl, CW10 has handed over the same to him and he has received the same, on the same day, he has recorded the statements of CWS-5 and 8, on the same day, he arrested the accused by following the arrest procedure and took the accused to his custody and recorded the voluntary statement of the accused. He has further deposed that, on 11.4.2015, CW1 appeared before the station and given further statement, along with the documents pertaining to CW2 ie., copy of the passport, copy of the Birth Certificate, Medical Report and Whatsapp Messages printouts were produced before him and he has received the same, Exs.P2 to P13 are the Whatsapp Messages Printouts, all these documents were given by CW1 along with a covering letter, he has received the said cover, endorsed on it, the said covering letter is in Ex.P18 and he has put his signature in Ex.P18(b), again he deposed that, he has treated Ex.P18 as the further statement of CW1. He has further deposed on the same day ie., on 11.4.2015 in between

12 P.M to 1 P.M., he has conducted panchanama in the office of the accused, at that time, he has seized 6 material objects from the office of the accused, the said Material objects are ST-2 Form, Lease Agreement dated: 18.9.2014, Rental Agreement, 2 declaration letters, Original Identity card of the accused and one Note Book and subjected them to PF No.55/2015, the Seizure Mahazar is marked in Ex.P23 and his signature is marked in Ex.P23(b), on the same day he has recorded the statements of CWS-3, 4 and 6 and produced the accused before the court with Remand application and he can identify the accused who was standing before the court. He has further deposed that, on 14.4.2015 he gave an application to CW9 to give information regarding the accused and on 15.4.2015, he received the said information as per in Exs.P24 to P26 and his signature is in Ex.P24(b) thereafter he has sent the case papers to CW12 for further investigation. Thereby, this witness has also discharged his statutory duties. This witness was cross-examined by the learned counsel for the accused. In his cross-examination, he has admitted that, he has registered the complaint at 5.50 P.M. on 10.4.2015. He has also admitted that he had also accompanied to mahazar ie., the tuition Institute of the accused. He has also admitted that, he has not taken any statements of the students but he has recorded the statement of CW6 who was the Administrator and Receptionist of the said Institute. He has also admitted that he has not taken the CCTV footages. But, he has denied the suggestion that, he has prepared the above said documents in the police station itself.

25. PW11 is the Final Investigation Officer of this case. In his evidence he has deposed in his evidence that, on 23.4.2015 he received the case file from CW11 and verified it as he found prima-facie against the accused on 2.5.2015, he has filed charge- sheet before the court. Thereby, this witness has also discharged his statutory duties as the Final Investigation Officer of this case. This witness was cross-examined by the learned counsel for the accused. In his cross-examination, he has not visited the spot of incident and not verified it. He has received the case file from CW11 and verified it. He has denied that due to pressure from one Nithin Sheshadri who is the President of Welfare Association, Koramangala, wherein PW4 is also one members, he has filed charge-sheet against the accused. He has denied that in order to falsely implicate the accused, he has submitted charge-sheet against the accused.

26. With this, the evidence of PWS-2 to 4 with little circumstantial evidence of PW1, then the evidence of PWS-10 to 11 who are material witnesses, this court has to consider the merits of the prosecution case.

27. On considering the cross-examination portion of the evidence of PWS-2 to 4, I find that no successive contrary evidence is elicited in their cross-examination to contradict the version of any of these 3 witnesses from what they have stated in the chief evidence. As I have pointed out above, there is no conflict between the versions of PWS-2 to 4 and the defence of the accused with regard to the fact that the victim girl/ PW3 had joined tuition class of the accused and that the accused Institute was sending phone messages to the mother of the victim girl/ PW2 whenever there were tuition class and accordingly on 10.4.2015 in response to the phone message received, PW3 went to the tuition class of the accused to attend the class between 12 to 2 P.M. It is also not in dispute on that day that no other student had come except PW3 and that the accused had taken tuition class to PW3 in his chamber, it has also come in the evidence of PW6 who is the Receptionist was in her

chair in the institute and she has also spoken to this. With this, if we look to the cross-examination portion of PWS-2 to 4, the suggestions of the learned defence counsel suggesting that the witnesses have fabricated a false case because of a strict warning to PW3 regarding her studies which has been denied there is no other evidence elicited to disbelieve or to discard the consistent and corroborate testimony of PWS-2 to 4.

28. The defence of the accused is found as if the accused was very strict in doing tuitions and that the accused on 8.4.2015 had warned PW3/ victim girl and another boy Chethan in not having done their homework and therefore, the accused got wild against them and in this regard the defence counsel when put a suggestion suggesting the same to the witness has answered that she do not remember. To another suggestion that, PW3 and Chethan while eating snacks in the classroom were caught for which the witness answered in the Affirmative and the witness has also admitted that the accused had warned them having seen them eating snacks in the classroom to quit the classes. Except this there is no evidence found in the cross-examination suggesting any other motive or vengeance in the victim girl /PW3 giving a false report to her parents and giving their evidence in the witness box. Thus pending consideration of this defence in the foregoing paragraphs, I find no reasons to discard the evidence of PWS-2 to 4.

29. Further PW1 in corroboration with the testimony of PW2 and PW3 regarding the injury that PW3 suffered to her leg while she was coming running from the Institution of the accused probablises the story of PW3. Further in order to link these incidents to form a chain, I shall refer to the events that have happened in this case. As referred to above, admittedly PW3 gone to the institute of the accused for tuition on 10.4.2015 in between 12 to 2 P.M. but the victim girl returned home at 1.45 P.M., PWS-2 and 4 deposed and PW4 has pointed to the complaint given by him as Ex.P17 in which he has stated that his daughter returned from tuition at 1.45 P.M., on the same day he gave complaint to the police at 5.15 P.M., he has also stated that in between himself and his wife went to the Institute of the accused, the accused was not there , but he was secured to the Institute through PW6 and from there, they took the accused also to the police station produced him before the police and gave complaint as per Ex.P17. It should be construed that there is no time gap between the time of the offence and filing of the complaint. In support of this, PW10 the PSI has stated that on 10.4.2015, while he was incharge of the police station, PW4 gave a complaint which was registered as a crime at the same time PW4 also took the accused with him and when he was produced, he was taken to custody and proceeded to the further course of action. PW1 has deposed on the date of the offence, PW3 was taken to his hospital by PW2 for leg injury of PW3 and he had treated her. All these facts without any contradictions go in consistent with each other and points to the fact and the narration given by PW3 to PWS-2 and 4 reflects the true history and that gets corroboration from the first information given as per Ex.P17. Therefore, the evidence of PWS-2 to 4 remain unblemish and uncontraverted and gets corroboration from the evidence of PWS-1 and 10.

30. With this, I shall now go to the defence of the accused as set by it and as argued by the learned counsel for the accused. It is attempted to convince the court stating that PW3 was not doing the homework properly therefore, she was scolded in the class and she was asked to quit the class on finding her eating snacks in the classroom for which the victim girl became vindictive and therefore given a false report to her parents followed with false evidence in the witness box. The learned

defence counsel in the cross-examination of PW3 has confronted 48 photographs taken from Instagram and Face Book and Social Media from the account of PW3 and got marked them as Exs.D1 to D48 and argued that PW3 through this photos found to be very social in her behaviour in the public as well as with the person found in the photographs , therefore the version of PW3 cannot be believed. No doubt the defence documents at Exs.D1 to D48 explicitly points that PW3/ victim girl was found in the association of several persons in several postures and it is admitted by PW3 that she was a Model and was a dance trainer etc. The photographs referred to above through for their looking exhibit the free movement of PW3/ victim girl with other co-stars/workers or trainees but that cannot be taken as a ground and call it as free lancer because of her profession as she herself has admitted.

31. Even admitting these photographs on one side, this court has to see as what is the other defence of the accused to show that PW3/ victim girl had any personal jealous against the accused. The accused is not found in the field or profession of the persons found in the photographs or of PW3 or a competitor competing with them so that to take it as a ground by PWS-2 and 3 to falsely implicate the accused . Even otherwise, assuming what the defence counsel argued for the sake of arguments what right the accused has to invade in the personal life of PW3 is a question that arises. In this regard, the learned Special Public Prosecutor has relied on the following decisions reported in AIR 1991 SC Page 207, 2018 CrL.L.J Page 3541 and 2000 CrL.L.J Page 1793 thereby the Learned Special Public Prosecutor submitted that as per the above said decisions, even a women easy virtue is entitled to privacy and no one can invade her privacy as and when he likes, so also, it is not open to any and every person to violate her person as and when he wishes. The Victim girl is entitled to protect her person if there is an attempt to violate it against her wish and she is equally entitled to the protection of law. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown over board. By way of reply, the Learned counsel for the accused has submitted that, the photographs which are marked as Exs.D1 to D48 are not disputed by the Victim girl or the prosecution at any point of time. Further he submitted the said photographs are produced only to show the contrary evidence of the mother of the Victim girl-PW2 and the contents of Exs.D4, D5, D6 and D7 because the mother of the Victim girl has deposed before the court that, due to alleged incident her daughter became depressed and even till that date ie. date of evidence of PW2, the Victim girl was not able to sleep alone. Thereby, the said photographs are produced before the court but not to invade the profession of the Victim girl.

32. In the present case it appears that, the fact on record that the Victim girl is said to be a Model by profession and therefore, she cannot be away from mingling with public or even with her co-professionals which in my view is unavoidable and it is a part of their profession to the extent it is required. Thereby, the appearance of the Victim girl as in Exs.D4 to D7 cannot be linked to the agony that she had undergone as on the date of the crime. As such, the referred decisions as stated above are helpful to the case of the prosecution and thereby I agree with the submissions made by the learned Special Public Prosecutor.

33. Further during the course of the arguments, the learned Special Public Prosecutor has relied upon the decisions reported in AIR 1986 SC 1099, AIR 1961 SC 1316, AIR 1959 Madras 166,AIR 1958 SC 22, 2018 Cril.L.J 4226 and Criminal Appeal No.147/2017 of the Hon'ble High Court of Bombay,

thereby submitted that the prosecution through cogent evidence pointed to the guilt of the accused and that the prosecution evidence since has not been rebutted by the defence, this court shall draw presumption under Sec.29 and 30 of POCSO Act, 2012 thereby, the accused has to be punished in accordance with law . Per contra, the learned counsel for the accused replied that the prosecution case can be rebutted by 2 means (1) being by cross-examination of the material prosecution witnesses and impeach their testimony and (2) is by adducing defence evidence. Since the defence has discredited the chief evidence of material prosecution witnesses in the cross- examination, there is no need for leading the defence evidence as the case of the prosecution has been rebutted by cross-examination of the material prosecution witnesses . Therefore, Secs.29 and 30 of POCSO Act 2012 cannot be applied to the facts of this case. In support of his arguments, he has relied upon decisions reported in:

Criminal Appeal No. 22/2017 , 2019 SCC Online Kerala 783, 2018 SCC Online Bombay 1280, 2019 SCC Online Calcutta 1855, 2017 SCC Online Calcutta 5023. Basing on these decisions, the Learned counsel for the accused has further submitted that, every accused is presumed to be innocent unless the guilt is proved. The presumption of innocence is a human right, however subject to the statutory exceptions. The said principle forms the basis of criminal Jurisprudence. For this purpose, the nature of the offence, its seriousness and gravity thereof, has to be taken into consideration. Further he submitted it is settled while rebutting the presumptions raised against the accused he would have to prove it on preponderance of probabilities. In this backdrop, the evidence of the prosecutrix as well as the defence have to be analyzed. In the present case on hand on looking into the evidence of the Victim girl as well as her parents are not corroborative with each other but they suffer from major contradictions. Thereby, he submitted the accused has rebutted the presumption under Secs. 29 and 30 of POCSO Act, 2012.

34. As discussed by me in the above Paragraphs, I have concluded the evidence of PWS-2 to 4 put forth before this court in the chief evidence has not been contraverted by the defence and they remain unrebutted which nail the guilt of the accused and I have also held that the evidence has not been rebutted thereby the court can draw presumption available under POCSO Act, 2012.

35. The learned Special Public Prosecutor further argued that the defence who has produced Exs.D1 to D48 which contains the photographs of the victim girl has not produced the certificate of the person who took the photographs, as required under Sec.65B(4) of the Evidence Act. Therefore, those photographs cannot be looked into. Further he submitted that, production of such certificate is one of the procedural aspects which cannot be declined either by the court or by the defence.

36. As against this, the learned defence counsel submitted that the photographs referred to herein were down loaded from the Face book account of the victim girl herself. Therefore, the question of producing the certificate as referred to above does not arise at all. In this regard, he has relied upon the decision reported in Special Leave Petition [Criminal] 2302 of 2017 the Hon'ble Supreme court of India held between Shafhi Mohammed Vs. The state of Himachal pradesh and further submitted as per the said decision the Hon'ble Apex court clarified the legal position on the subject on the

admissibility of the electronic evidence especially by a party who is not in possession of the device from which the document is produced. Such party cannot be required to produce Certificate under Sec.65B(4) of the Evidence Act. The applicability of requirement of certificate being procedural can be relaxed by court wherever interest of justice so justifies.

37. In the present case, the prosecution has not denied that the photographs in question were down-loaded from the Face book account of the victim girl that being so, they were not originated from the act of the accused calling for production of such certificate. As such, I find no force in the contention of the learned Special Public Prosecutor .

38. The learned defence counsel further argued that because the accused had on 8.4.2015 when the victim girl found for having not done given homework, and found eating snacks with another male student for which the accused took objection and warned the victim girl and for that reason took it as insult and to take revenge against the accused, has filed the false complaint and further stated that the victim girl had joined to the Institution after enquiring about the reputation of the Institution of the accused, therefore the allegations against such person who is running the Institute is un-cherishable.

39. Even assuming that whatever the defence counsel agreed is true but that do not impress upon the court to say that the victim girl for no reason of warning given by the accused had taken such a step of making allegations against the accused touching her privacy and that reputation is concerned may be that reputation is regard to quality of tuition being given to the students, but with regard to behaviour of the persons changing at some moments of their carrier cannot be predicted to be safe and uniformity at all times. Therefore, this court has to scan the prosecution case carefully and find out whether the story of the prosecution is far from blemish. Hence, I do not find any substance in the arguments of the learned defence counsel to over-rule the prosecution case.

40. The learned defence counsel argued that the victim girl has not been subjected to Medical test as called upon under Sec.27 of POCSO Act 2012 and therefore it is a serious lapse of the prosecution case therefore that benefit of latches of the Investigating Agency shall go to the accused. Sec.27 of POCSO Act 2012 refers to the medical examination of a child in respect of whom any offence has been committed under this Act in accordance with Sec. 164A of Cr.P.C. Sec.164A of CrP.C provides for examination of a child subjected to rape or an attempt to commit rape on that child. Therefore Sec.27 of POCSO Act 2012 is controlled by Sec.164A of Cr.P.C and medical test is not made mandatory for the offences punishable under Sec.354 of IPC and Secs. 8 and 12 of POCSO Act 2012 as such, I find no merits in the submission of the learned counsel for the accused.

41. Further on looking in to the entire evidence of PW3, the complaint allegations and the evidence of PW10, on the date of the offence, the accused was taken to the police station by PW4 and was produced before the police who took the accused to the custody has not been contradicted or denied by the learned defence counsel. If PW4 had illegally dragged the accused to the police station without any reason he could have complained to the police against PW4 which has not been done and this fact has not been denied. These chain of events point that there was earnestness in PW4 in bringing the guilt of the accused to the notice of the police and it followed swift action also speaks of

truthfulness of the prosecution story which cannot be over-looked. Therefore considering all the material witnesses examined before the court and the failure of the defence in contraverting the same and not rebutting it by any defence evidence, this court finds the scope of Sec.29 of POCSO Act 2012 and hold that the accused has failed to rebut the presumption arising under Sec.29 of POCSO Act 2012 and conclude that the prosecution has proved the guilt of the accused beyond all reasonable doubts. Hence, the accused is liable to be convicted for the offence as defined under Sec.9(f) of POCSO Act 2012 punishable under Sec.10 of the said Act. Accordingly I answer Point No.3 in the AFFIRMATIVE.

42. POINTS-1 AND 2:- The accused has been charged by my Learned Predecessor for the offences punishable under Sec.354(A) of IPC and also for the offence as defined under Sec.7 of POCSO Act 2012 punishable under Sec.8 of the said Act and also for the offence as defined under Sec.9(f) of POCSO Act 2012 punishable under Sec.10 of the said Act. On perusal of the prosecution case and the materials on record, show that the accused being the head of AIM Global Education Tuition Institution committed sexual assault by touching the body of the victim girl inappropriately with sexual intent. These ingredients squarely fall within the ambit of Sec.9(f) punishable under Sec. 10 of POCSO Act 2012 whereas my Learned Predecessor while framing Charge under Sec.354A of IPC and under Sec.7 of POCSO Act 2012 which contain considerably a minor overt-acts come within the scope of Sec.9 of POCSO Act 2012 itself and that punishment being higher for the offence under Sec.9 of POCSO Act 2012 the Charge framed under Sec.354A of IPC and Sec.7 of POCSO Act 2012 do not sustain and those Sections fall within the ambit of Sec.9 of POCSO Act 2012. Therefore those 2 Charges/Points are not answered separately. Thereby these 2 Points are answered accordingly.

43. POINT NO.4:-:- In view of the discussions made by me herein above, I proceed to pass the following:

ORDER Acting under Sec.235(2) of Cr.P.C, I hereby convict the accused for the offence punishable under Sec.10 of POCSO Act, 2012.

The bail bond and surety bond of the accused
stands cancelled.

[Dictated to the Stenographer directly on the computer, corrected carried out and then pronounced by me in the open court on this the 29 th day of January, 2020]
[R.SHARADA] LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.

1.2.2020 ORDER ON SENTENCE I have heard the accused, Learned counsel for the accused and the learned Special Public Prosecutor regarding sentence to be imposed on the accused for the offence punishable under Sec.10 of POCSO Act, 2012.

The Learned counsel for the accused has submitted that, the accused is aged about 28 years, recently married, he has no any antecedents, and he was regular before the court throughout the proceedings and he has not violated any conditions of this court imposed on him and he is having ailed mother-in-law who is suffering from cancer and and he has to take care of her. Further he submitted that, he still he is in the young age he has to build up his career thereby, the Learned counsel for the accused prayed to release him on probation under the provisions of Probation Offenders Act. In support of his arguments, he has filed an application under Sec.360 of Cr.P.C r/w Secs.3 and 4 of Probation of Offenders Act along with documents, with a prayer to release the accused on probation with such conditions in the interest of justice and equity.

The learned Special Public Prosecutor filed objection to the application filed by the Learned counsel for the accused under Sec.360 of Cr.P.C r/w Secs.3 and 4 of Probation of Offenders Act and submitted the crime committed by the accused is heinous in nature that too against a minor girl who was his student thereby, the application filed by the Learned counsel for the accused has to be rejected . In suport of his arguments he has relied upon the decision reported in LAWS (BOM) 2018 6 102 of the Hon'ble High Court of Bombay held between Nishant Harishchandra Salvi Vs. State of Maharashtra and prays to reject the application with exemplary costs and to pass suitable orders in the interest of justice and equity.

Heard the arguments and once again I have perused the records and also the decision relied by the learned Special Public Prosecutor.

The Learned counsel for the accused has filed this application invoking the powers of this court acting under Sec.4 of Probation of Offenders Act to grant relief to the accused who is convicted for the offence punishable under Sec.10 of POCSO Act, 2012. The learned Special Public Prosecutor opposed this application with objections and contended that the accused who is convicted for the offence punishable under Sec.10 of the POCSO Act, 2012 is not entitled to the benefit under Sec.4 of Probation of Offenders Act and the court also in such matters should not use discretion to extend the benefit under the said Section and in support of his arguments, he has placed reliance the decision reported in LAWS (BOM) 2018 6 102.

The accused has been convicted by this court for the offence punishable under Sec.10 of POCSO Act, 2012, for the accused having had inappropriately touched the body of the Victim girl and attempting to kiss her on lips. Having regard to the nature of the offence, the age of the accused and his future prospectus, this court pending decision whether the benefit under Sec.4 of Probation of Offenders Act could be extended to the accused or not inclined to call for report from the concerned Probation Officer.

The decision relied by the learned Special Public Prosecutor do not say that, Report itself shall not be called for. But held that, the court/s should not extend the benefit randommly or routinely. Therefore, the pending decision on the application calling for the Report of Probation Officer in no way affects the process of deciding the issue pending before this court, hence, rejecting the objections of learned Special Public Prosecutor, I proceed to pass the following :

ORDER Office to issue intimation along with a copy of this Judgment to the Probation Officer concerned and call for his Report as provided under Sec.4(2) of the Probation of Offenders Act. Further the office is directed to intimate the Probation Officer concerned to submit his Report within 10 days from the date of receipt of intimation.

[Dictated to the Stenographer directly on the computer, corrected carried out and then pronounced by me in the open court on this the 1 st day of February, 2020]
[R.SHARADA] LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.

24.2.2020 ORDERS ON PROBATION OFFICER'S REPORT The office has received the Report of the Probation Officer.

Heard on the Report by the learned counsel for the accused and the learned Special Public Prosecutor. Perused the same.

During the course of arguments, the learned Special Public Prosecutor submitted that, this court has convicted the accused for the offences punishable under Sec.10 of POCSO Act, 2012. The Probation Officer has submitted his Report dated: 12.2.2020. Of course, there is no any allegation of antecedents against the accused in the said Report. But considering the gravity of the offence, and the crime committed by the accused who is none other than the teacher running Educational Institution, wherein the Victim girl was having tuitions, the benefit under Probation of Offenders Act need not be extended to him. Thereby, he prays to punish the accused with imprisonment to the maximum extent as provided under the provision of POCSO Act 2012.

Per contra, the Learned counsel for the accused has submitted that, this court has convicted the accused for the offence punishable under Sec.10 of POCSO Act, 2012. On the application filed by the accused under Sec.4 of the Probation of Offenders Act, a Report is called by the Court. The Probation Officer concerned has submitted his Report. According to the said Report, there is no any antecedents against the accused, he has not involved in any crime, he is running Educational Institutions at 3 different places having huge number of students, now he is married having a wife who is also a Doctor ie., Dentist and having a good family background. Considering all these facts and circumstances of the case, she prays to release the accused under Sec.4 of Probation of Offenders Act.

Once again I have perused the Report of the Probation Officer. On perusal of his Report, it discloses that he has gone in minute details of the background, antecedents and previous involvement in any of the crime activities of the accused and submitted that no negative information about the accused. Therefore, considering the Report of the PO regarding his antecedents I find no negative Report in any aspects of activities of the accused. Therefore, I find no reasons to decline to extend the benefit of Sec.4 of Probation of Offenders Act to the accused. Though the learned Special Public Prosecutor has submitted to punish the accused as provided under Sec.10 of POCSO Act, 2012, but failed to justify his reasons in not extending the benefit of Sec.4 of Probation of Offenders Act to the accused.

Thereby, I am of the opinion that the application filed by the accused under Sec.4 of Probation of Offenders Act could be allowed, but with conditions as provided under Law. With thereafter is I proceed to pass the following :

ORDER The application filed by the accused under Sec.4 of Probation of Offenders Act, is hereby allowed.

The accused is released on probation under Sec.4 of Probation of Offenders Act, on his executing personal bond for his good behaviour and conduct with one surety for the same having reputation in the society, for a period of 2 years from the date of this order with the following conditions:.

(1) The accused shall maintain peace, good conduct and behaviour for the above said period.

(2) The accused shall not indulge in commission of any offences during his period of probation.

In the event of violating any of the conditions imposed against him, as mentioned above, the accused shall come and receive the sentence for the offences he has been convicted for.

The copy of this judgment along with the conditions imposed against the accused shall be sent to the Jurisdictional Probation Officer as well as to the Investigating Officer concerned for information and also to follow up as per Rules and report to this court, if the accused indulges in any of the offence/crime, by violating the conditions imposed on him.

MO-1 ie., the DVD cassette is ordered to be kept along with the other material evidence of this case.

Copy of this Judgement shall be given to the accused forthwith free of costs.

[Dictated to the Stenographer directly on the computer, corrected carried out and then pronounced by me in the open court on this the 24 th day of February, 2020] [R.SHARADA] LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.

ANNEXURES:

Witnesses examined for the prosecution:

PW.1	Dr.Sandeep Jathanna	CW7	20.2.2016
PW.2	Reshama Gupta	CW5	28.4.2016
PW.3	Victim girl	CW2	30.12.2016
PW.4	Suveer Gupta	CW1	10.3.2017
PW.5	S.Kumar	CW8	5.6.2017
PW.6	Vani @ Vanishree	CW6	3.3.2018
PW.7	Beejujan	CW3	5.3.2019

PW.8	Tisha	CW9	5.3.2019
PW.9	Hemalatha	CW10	19.7.2019
PW.10	D.N.Nataraju	CW11	2.8.2019
PW.11	B.N.Prashanth	CW12	22.8.2019

Documents marked for the prosecution:

Ex.P1	Medical Certificate of PW3/ victim girl
Ex.P1(a)	Signature of PW1
Exs.P2 to P13	Messages [12 pages]
Ex.P13(a)	Message
Ex.P14	Certificate by way of Affidavit under Sec.65B of Indian Evidence Act, 1872
Ex.P15	Complaint dated: 10.4.2015
Ex.P5(a)	Signature of PW3/ victim girl
Ex.P5(b)	Signature of PW9
Ex.P5(c)	Signature of PW10
Ex.P16	Statement of PW3/ victim girl given before the Learned Magistrate under Sec.164 of Cr.P.C
Ex.P16(a)	Signature of PW3/ victim girl
Ex.P17	Complaint lodged by PW4
Ex.P17	Signature of PW4
Ex.P18	Further complaint lodged by PW4 dated: 11.4.2015
Ex.P18(a)	Signature of PW4
Ex.P18(b)	Signature of PW10
Ex.P19	True copy of Certificate of birth of PW3/ victim girl
Ex.P20	True copy of Passport of PW3/ victim girl
Ex.P21	Statement given by PW5 to the complainant police under Sec.161 of Cr.P.C
Ex.P21(a)	Relevant portion
Ex.P22	Statement given by PW6 to the complainant police under Sec.161 of Cr.P.C
Ex.P22(a)	Relevant portion
Ex.P22(b)	Relevant portion
Ex.P22(c)	Relevant portion
Ex.P23	Panchanama
Ex.P23(a)	Signature of PW7
Ex.P23(b)	Signature of PW10
Ex.P24	Letter dated: 17.4.2015 written by Superintendent of Customs to the Police Inspector, Koramangala police station, Bangalore for furnishing of documents
Ex.P24(a)	Signature of PW8
Ex.P24(b)	Signature of PW10
Ex.P25	Form ST-1 pertaining to the accused
Ex.P26	Form ST-2 pertaining to the accused

MO-1 DVD cassette List of Witnesses examined for the accused: NIL List of documents marked for the accused:

29.1.2020 Judgment pronounced in open court:

[Vide separate detailed Judgment] Acting under Sec.235(2) of Cr.P.C, I hereby convict the accused for the offence punishable under Sec.10 of POCSO Act, 2012.

The bail bond and surety bond of _____ the
accused stands cancelled.

[R . SHARADA]]

LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.

1.2.2020 ORDERS Office to issue intimation along with a copy of this Judgment to the Probation Officer concerned and call for his Report as provided under Sec.4(2) of the Probation of Offenders Act.

Further the office is directed to intimate the Probation Officer concerned to submit his Report within 10 days from the date of receipt of intimation.

[R.SHARADA]] LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING

IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.

24.2.2020 ORDERS The application filed by the accused under Sec.4 of Probation of Offenders Act, is hereby allowed.

The accused is released on probation under Sec.4 of Probation of Offenders Act, on his executing personal bond for his good behaviour and conduct with one surety for the same having reputation in the society, for a period of 2 years from the date of this order with the following conditions:.

(1) The accused shall maintain peace, good conduct and behaviour for the above said period.

(2) The accused shall not indulge in commission of any offences during his period of probation.

In the event of violating any of the conditions imposed against him, as mentioned above, the accused shall come and receive the sentence for the offences he has been convicted for.

The copy of this judgment along with the conditions imposed against the accused shall be sent to the Jurisdictional Probation Officer as well as to the Investigating Officer concerned for information and also to follow up as per Rules and report to this court, if the accused indulges in any of the offence/crime, by violating the conditions imposed on him.

MO-1 ie., the DVD cassette is ordered to be kept along with the other material evidence of this case.

Copy of this Judgement shall be given to the accused forthwith free of costs.

[R.SHARADA]] LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55] SITTING IN CHILD FRIENDLY COURT, BENGALURU URBAN DISTRICT.