

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.847 OF 2014

Ratnamala Atmaram Shiramwad ... APPELLANT

VERSUS

The State of Maharashtra & others ... RESPONDENTS

.....
Shri R.K. Ashtekar, Advocate for appellant
Mrs. R.K. Laddha, A.P.P. for respondent No.1/ State
.....

CORAM: A.I.S. CHEEMA, J.

DATED: 29th January, 2015.

ORAL ORDER :

1. Heard learned counsel for appellant - complainant.
Perused record. Learned counsel for the appellant is submitting
that the trial Court has wrongly acquitted the accused persons.
The daughter of the complainant (referred in this order as "X")
was minor when she was kidnapped by the accused persons.
The document Exhibit 48 Viddyarathi Pravesh Nirgam Pramane

Nondani was discarded by the trial Court, and relying on other evidence, the trial Court held that the fact that the girl was minor, was not established. According to learned counsel, the acquittal needs to be interfered with and the appeal should be admitted.

2. Going through the material available and the reasonings recorded by the trial Court it is appearing that the incident is stated to be of 18.8.2011 when, according to the complainant Ratnamala, her daughter "X" was missing and she filed missing report. Subsequently, it is claimed that there was a phone call and the person calling told that his name is Hanmant (accused No.1) and that he has kidnapped her daughter. The complainant appears to have filed F.I.R. on this basis and the matter was investigated. In the trial Court, it appears, there was oral evidence of villagers, claiming the age of the girl to be 16 years. There was document Exhibit 48 Viddyarathi Pravesh Nirgam Pramane Nondani, according to which the date of birth of the girl was stated to be 15th May 1995. The trial Court, however, considered the fact that no evidence was brought as to person who made the entry in the concerned school record and the person who issued the document. The trial Court found that the Head Master of the school was not examined and the entry in

the school record was not duly established. It thus ignored the document Exhibit 48. Learned counsel submitted that it was public document and so, should have been considered.

3. Apart from the above document, what record shows is that there was evidence of P.W.7 Vilas Kadam, claiming that actually the accused No.1 has been married to the daughter "X" by the complainant herself. It appears, defence was raised that, due to property dispute the complaint is filed. The evidence of P.W.7 further has been discussed by the trial Court that at the police station the girl was not ready to go with her mother and that she was with accused Hanmant. The girl has not been examined in the trial Court and the trial Court took note of this fact. The trial Court came to the conclusion that the offence has not been proved beyond all reasonable doubts. Even the phone call was not linked to the accused No.1 by getting call records. The trial Court observed that, better proof of age from Municipal record was not available and medical evidence was also not there regarding age of the girl. In this view of the matter, the trial Court acquitted the accused.

4. Going through the material available, I do not find that this is a fit case to grant leave. The view taken by the trial

Court is possible view. The counsel is unable to convince that the observations and reasonings recorded by the trial Court cannot be supported from oral evidence. As such, there is no substance in the appeal against acquittal. Admission of the appeal is declined and it is dismissed.

(A.I.S. CHEEMA, J.)

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