

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 4643 OF 2014

THE STATE OF MAHARASHTRA
VERSUS
SANTOSH UTTAMRAO KUTE

...
Advocate for Applicant : Mrs. R. K. Ladda.

CORAM: T. V. NALAWADE, J.
DATED: 10th August, 2015.

PER COURT:

1. The application is filed for grant of leave to file appeal against judgment and order of S.C.C. No.858 of 2012 which was pending in the Court of learned J.M.F.C., Aurangabad. The learned J.M.F.C. has acquitted the accused of the offence punishable under section 354 of I.P.C.
2. Heard learned A.P.P. Seen the Record. Seen the reasoning given by the learned J.M.F.C. The victim girl was aged about 3 years at the relevant time. It is the case of the prosecution that on 21st November, 2011

after 11.00 a.m. when she returned home, she disclosed to her parents that the bus driver of the school bus had removed her clothes. An employee of the school had helped her for putting the clothes on her person. First the complaint was made to the school authority and as no steps were taken, report was given to the police on 28th November, 2011.

3. The record shows that in the Court the evidence of the girl could not be completely recorded and the Court held that she was not competent and even A.P.P. tried to cross examine the victim girl. In the F.I.R. name of one assistant employee was mentioned as the person who had noticed that some incident had taken place and the victim girls clothes were removed by somebody. The record does not show that the investigating officer tried to record the statement of the said employee. Said employee is not examined in the Court and there is evidence of all the witnesses whose versions are of hearsay nature. Considering the age of the victim girl which was hardly 3 years and the circumstance that she could not competently give evidence against the accused, this Court holds that nothing can be achieved

by granting permission to file appeal.

4. In the result, the application is rejected. Leave is refused.

[T. V. NALAWADE, J.]

Dt.10/08/2015
ans/4643