

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4608 OF 2015

The State of Maharashtra,
through Police Station,
Jafrabad, Dist.Jalna ..Applicant

Versus

Sapna s/o. Shivaji Shelke,
Age 22 years, r/o. Kolegaon
and ors. ..Respondents

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Mr.S.D.Ghayal, advocate for applicant

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CORAM : M.T. JOSHI, J.

DATE : DECEMBER 10, 2015

PER COURT :

Heard both sides.

2] Aggrieved by the impugned judgment and order dated 28th May, 2015 passed by learned Assistant Sessions Judge, Jalna in Sessions Case No.178 of 2014 acquitting present respondents from the offences punishable under Section 363 and 366-A read with 34 of Indian Penal Code, the State wants

to prefer an appeal and therefore, present application for grant of leave to file appeal, is preferred.

3] As per the prosecution case, the victim who was 15 years old when she went missing from the custody of her parents on 7th April, 2014, was kidnapped by present respondents in collusion with each other and therefore, the offence came to be registered.

4] Before the learned Assistant Sessions Judge, regarding the date of birth of the victim that she was born on 7th December, 1999, the certificate from the school at Exhibit 39 was pressed into service. It has, however, come on record during the cross-examination of PW 7 – Ambhore, School Teacher, who had passed the certificate, that there was no document regarding the date of birth of the victim mentioned in the School Leaving

Certificate and said certificate was issued in absence of the Headmaster as he was on leave.

5] Further, the cross-examination of the victim revealed that there was intimacy between the victim and respondent no.2 - the principal accused. Her marriage was settled with another person during the said period. Therefore, upon calling by respondent no.2, she went away with him. There are no allegations that any sexual intercourse took place between the victim and respondent no.2. Further, there was no iota of evidence that the alleged offence was committed in further of common intention by the respondents. Considering all these facts on record, the learned Assistant Sessions Judge has acquitted the respondents.

6] The reasons of the learned Assistant Sessions Judge would show that on the basis of the material

before her, she has taken a reasonable and probable view of the same.

7] In the circumstances, the following order :-

. Present application is hereby rejected. Leave to file the appeal is hereby refused.

[M.T. JOSHI, J.]

kbp