

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.548 OF 1994

SANJAY @ SUNIL RAOJI GEJGE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sachin Dhakephalkar, Advocate for the Appellant.

Mr.Deepak Thakre, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 17th JULY 2015.

ORAL JUDGMENT :

1 The appellant has been convicted of offences punishable under Section 451 of Indian Penal Code (IPC), Section 376 IPC read with Section 511 IPC and Section 377 IPC, by the Additional Sessions Judge, Malegaon. The appellant has been sentenced to suffer Rigorous Imprisonment for 6 months and a

fine of Rs.200/- with respect to the offence punishable under Section 451 IPC, Rigorous Imprisonment for 3 years and a fine of Rs.300/- with respect to the offences punishable under Section 376 IPC read with Section 511 IPC, and Rigorous Imprisonment for 1 year and a fine of Rs.200/- with respect to the offence punishable under Section 377 IPC. Being aggrieved by his conviction and the sentences imposed upon him, the appellant has preferred the present appeal.

2 During the pendency of the appeal, the appellant made an application to this court raising a claim of juvenility. According to him, on the date of the commission of the alleged offences, the appellant was a 'Juvenile', as contemplated under the Juvenile Justice (Care and Protection of Children) Act, 2000. Since, such a claim was raised by the appellant, this court by the order dated 2nd February 2015, directed an inquiry to be held into the age of the appellant. The inquiry was directed to be held by the learned Additional Sessions Judge.

3 Accordingly, the learned Additional Sessions Judge has held an inquiry into the matter. After holding an inquiry, the learned Additional Sessions Judge has come to the conclusion that the appellant was a 'Juvenile' on 24th April 1990, i.e., the date when the offences in question allegedly took place. He has submitted his report to this court accordingly.

4 I have gone through the order passed by the Additional Sessions Judge coming to the conclusion that the appellant was a 'Juvenile' at the time of the commission of the alleged offences. I find that, the procedure adopted by the learned Additional Sessions Judge for holding the inquiry and the conclusion arrived at by him, is proper and legal.

5 The conclusion is, therefore, accepted. It is declared that the appellant was a 'Juvenile' on the date of the alleged offences, i.e., 24th April 1990.

6 The appellant, therefore, could not have been tried by
the Additional Sessions Judge. The trial against the appellant is
non-est.

7 In view of this, the judgment and order of conviction
of the appellant, and the sentences imposed upon him, are set
aside.

8 The appellant shall remain present before the Juvenile
Justice Board on 10th August 2015, and the Juvenile Justice Board
shall deal with him in accordance with law.

9 Record and Proceedings be send back forthwith.

10 The Appeal is disposed of in the aforesaid terms.

(ABHAY M. THIPSAY, J.)