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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 171 OF 2015**

Mohd Munir Sher Ali Ansari

Applicant

Versus

The State of Maharashtra and anr

Respondents

Mr. Aniket Gawand for the applicant.

Stm. V.S. Mhaispurkar, A.P.P. for the State.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 29, 2015**

P.C.

Admit. Heard finally.

2. The applicant is facing trial for the offence punishable under section 411 of the Indian Penal Code. He has been chargesheeted along with accused no.1 Imbrahim Mohd Ansari. Accused no. 1 had been chargesheeted for the offence punishable under section 363, 376, 380 of Indian Penal Code read with sections 4 and 12 of Protection of Children from Sexual Offences Act, 2012. The accused No. 1 had affair with the victim girl, the daughter of the complainant. It is alleged that the amount of Rs.2,50,000/- was taken away from the house of the complainant by his daughter. It is alleged that the said amount was given to the applicant by accused no. 1.

3. Nothing has been recovered during the course of investigation. There is no direct or circumstantial evidence against the applicant. The only material against the applicant, on the basis of which the order of the learned Special Judge is based, is the statement made by the co-accused in the police custody that he had given part of the amount to the applicant. This obviously is not an admissible piece of evidence. Since there is no other evidence, the applicant was entitled to be discharged. The application of the applicant for discharge has been wrongly rejected by the learned Designate Judge of Special Court. The order of the Special Court is therefore, set aside. The applicant is discharged of the offence punishable under section 411 of Indian Penal Code. His bail bond, if any, shall stand cancelled.

Criminal Application stands disposed of accordingly.

(JUDGE)