

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
APPLICATION NO.50 OF 2015

State of Maharashtra

..Applicant

-Versus-

Dr. Pradip Balwant Gothaskar

..Respondent

Mr.A.R.Patil for State

None for respondents.

CORAM : A.R.JOSHI, J.  
DATE : 9<sup>th</sup> JUNE 2015

P.C.

1] Heard learned APP for State – applicant. This is an application for leave to file an appeal challenging the judgement and order of acquittal of respondent in the matter of offences punishable under section 7 read with sections 8, 9(f) and 10 of Protection of Children from Sexual Offences Act, 2012 (for short the said Act).

2] The impugned judgement and order was passed by the Special Judge, Pune on 9<sup>th</sup> January 2015. What weighed with the learned trial court was non examination of about 22 girls then studying in 5<sup>th</sup> standard in the school. As the allegations against the respondent accused were that he acted in such a manner with the said tender aged girls, which actions were amounting to sexual

assault, in view of section 7 of the said Act. Though, two victim girls i.e. P.W.2 and P.W.3 were examined, the trial court disbelieved their testimony on the ground that there was no immediate disclosure of the alleged acts of the accused and only after few months, such disclosure was made to the teachers. Apart from this, what weighed much with the trial court was delay in filing F.I.R. With the police. The alleged incident, according to the prosecution, came to the knowledge of P.W.4 only on 26<sup>th</sup> February 2013. According to the trial court, this was the mitigating circumstance to the case of the prosecution. Moreover, it appears that the substantive evidence of P.W.4, Director of the Institute, P.W.5 – Principal of the Institute, P.W.6- Unit Head of the Institute and P.W.7 – Teacher, did not inspire confidence of the court as admittedly, it was hear say evidence and what these witnesses told was the revelations of the alleged acts of the respondent accused from girl students of the said school. According to P.W.4 – Director, she recorded the statements and prepared a sort of report and submitted it to the Principal P.W.5. It was done immediately within two to three days from 5<sup>th</sup> March 2013. However, apparently no immediate steps were taken to lodge F.I.R though even the meeting of the parents of the victim girls was

called. It is a factual position and as reported in the impugned judgement, that the report prepared by P.W.4 was not taken charge of by the investigating agency and was not produced before the court. Considering the effect of the substantive evidence of the prosecution's witnesses in totality, the trial court came to the conclusion as to failure of the prosecution to establish the charges for the alleged offences. All these aspects weighed with the trial court and which are detailed in para 72 of the impugned judgement and order.

3] Considering the above situation in the opinion of this court, the view taken by the trial court cannot be considered as of such a perverse nature or not according to the law, so as to interfere with the impugned judgement and order. While dealing with the present matter for leave, whether to be granted to the State to challenge the judgement and order of acquittal or not, in the opinion of the court, there is nothing to interfere with the order which is challenged and hence, the present application for leave is accordingly rejected and disposed of.

( A.R.JOSHI, J.)