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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.287 of 2015
(For condonation of delay)
IN
CRIMINAL APPLICATION No. of 2015

The State of Maharashtra ..Applicant.

Vs

Sanjay Vasant Nere ..Respondent.

Mr A.R.Patil, A.PP for the State.
Mr Anil Kumar Patil for the respondent.

CORAM : A.R.JOSHI, J
DATE : 11th SEPTEMBER, 2015

P.C. :

- 1) Heard rival submissions on this application for condonation of delay preferred by the State. The delay is caused in preferring the application for leave to file appeal challenging the acquittal of the respondent in the matter of offences punishable under sections 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 354-B of IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012.
- 2) For the reasons mentioned in the application, the delay is condoned. The application is allowed and disposed of accordingly.
- 3) Office to register the application for leave to file appeal accordingly.
- 4) Heard rival submissions on the application for leave to file appeal. The respondent original accused is acquitted of the offences punishable

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under sections 3 (1) (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and section 354-B of IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012. The impugned judgment and order was passed by the learned Additional Sessions Judge, Vasai, District Thane vide judgment and order dated 1st September, 2014.

5) The case of the prosecution in nut-shell is that the respondent-accused was the Headmaster of one Ashram Shala. On 22.6.2013 he called the victim girl, then aged about 14 years, to his office and had sexual advances and thereby committed the offences charged against him. The specific allegation was that he called the girl to his office and by asking her to sit by his side, he lifted her skirt and moved his hand on her thigh. Apparently, this incident was witnessed by PW no.4, the another office bearer of said Ashram Shala. The matter was then reported to the mother of the girl and after two days the complaint was lodged with the police. After completion of investigation, the charge-sheet was filed and the respondent-accused was tried for the offences mentioned above.

6) What weighed with the trial Court was the variance in the substantive evidence of the prosecutrix girl P.W.no.1 and PW no.4, another teacher of the said Ashram Shala. According to PW no.4, when he noticed the incident in the chamber of the respondent-accused, he noticed that the girl was standing by the side of the chair where the respondent was sitting. The girl was crying and after seeing PW no.4 entering the room, she rescued herself and ran away out of the room. The substantive evidence of PW no.4 did not mention that he saw the incident of any molestation done by the respondent-accused. As against this, the substantive evidence of the girl discloses that on that day prior to taking the girl to his office the

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respondent-accused has taken her in the school premises by holding her hand and lastly he took the girl in his cabin. He asked the girl to sit by his side and lifted her skirt and put his hand on her thigh. The girl then came out of the room and ran away without responding to the accused. The substantive evidence of the girl did not mention that she started crying. Also what weighed with the trial Court was the delay in lodging the FIR and apparent admitted position that the relations between the PW no.4 and the respondent-accused were strained. Also what weighed with the trial Court was that the respondent-accused had earlier complained regarding the love affair the victim girl with one student of the said Ashram Shala and reporting of said affair by the respondent-accused to the mother of the victim girl.

7) Taking over all view of the matter, the trial Court came to the conclusion as to non-establishment of the charges against the respondent-accused and as such acquitted him. Considering the effect of substantive evidence brought before the trial Court, in the opinion of this Court, the view taken by the trial Court cannot be considered as perverse so as to be interfered with by allowing the State to re-agitate the matter in the appeal.

8) In the result, application for leave to appeal is dismissed and disposed of.

(A.R.JOSHI, J.)

CERTIFICATE:-

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED
ORDER.