

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION [ALS] NO.239 OF 2013

The State of Maharashtra	..Applicant
<i>Versus</i>	
Nitin Ramchandra Shelar & Ors.	..Respondents
....	
Mr. A.R. Patil, APP, for the Applicant – State.	
Mr. V.S. Talkute, for Respondent Nos.1 & 2.	

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CORAM : A. R. JOSHI, J.
DATE : 10th JUNE, 2015

P.C.

1. Heard learned APP for the State. This is an application for leave to file appeal challenging the judgment and order of acquittal of the respondent/accused persons. The respondents/accused were acquitted of the offences punishable under Sections 363 and 366 read with Section 34 of IPC.
2. What influenced the trial Court was the contradictions and omissions and also improvements in the substantive evidence of the prosecutrix girl (PW-3). Though the Court came to the conclusion that she was below 18 years of age on the date of the incident, the Court further held that her testimony cannot be believed as to enticing her away from the lawful guardianship of her parents by the respondents / original accused. Allegedly, the incident of kidnapping took place in the afternoon of

3.10.2011 but the missing complaint was lodged with the police on 7.10.2011 and thereafter on knowing that the kidnapping was at the instance of the present respondent/original accused No.1, FIR was lodged against him on 14.10.2011 and the investigation was started. As such, this belated lodging of the complaint also influenced the trial Court to doubt the case of prosecution.

3. The reasoning given by the trial Court is gone through and in the opinion of this Court, the view taken by the trial Court cannot be considered as perverse considering the evidence on record. Considering the scope of this Court in interfering with the judgment and order of acquittal, it cannot be said that a different view can be entertained by this Court than that taken by the trial Court. In other words, there is nothing to interfere with the impugned judgment and order of acquittal of respondents for the offences charged. As such, there is nothing to reagitate the matter again by allowing the State to file appeal and proceed further with the matter. In the result, present application for leave to file appeal is dismissed and accordingly disposed of.

(A. R. JOSHI, J.)