

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.103 OF 2015

THE STATE OF MAHARASHTRA ...Applicant.
V/S
BALASAHEB ATMARAM YADAV ...Respondent.

....
Mrs. Anamika Malhotra, APP, for the Applicant-State.
....

CORAM : A. R. JOSHI, J.

DATE : 21st SEPTEMBER, 2015

P.C.

1. Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondent in the matter of offences punishable under Sections 376 and 506 of IPC.
2. The impugned judgment and order of acquittal was passed by the Additional Sessions Judge, Karad, District - Satara on 6.4.2015.
3. During the trial only substantive evidence of PW-2, the prosecutrix girl, who was critically examined by the trial Court and it came to the conclusion as to age of the prosecutrix being

on the border line of 17-18 years. In order to ascertain this age, the trial Court also observed that the secondary sex characters of the prosecutrix were well developed and in fact she had given birth to a child and it was the full grown child. The trial Court also considered the aspect as to delay in filing the first information report inasmuch as lodging offence of having forcible sexual intercourse with the prosecutrix by the present respondent occurred in January, 2012 but only after about 11 months, after the pregnancy and delivery of a child by the prosecutrix, her mother lodged the complaint and on such complaint offence was registered against the present respondent/accused and also one more co-accused who was then juvenile. Said juvenile was differently treated before the Juvenile Board and the present respondent/accused was tried in Sessions Case No.18 of 2013, which ended in acquittal.

4. Considering the substantive evidence mainly of PW-2 the prosecutrix girl, coupled with the substantive evidence of her mother [PW-1], in the opinion of this Court there is nothing to come to the conclusion that the judgment and order of acquittal is of such a pervert nature so as to be interfered with

by allowing the State to challenge the order of acquittal. In the result, there is nothing to come to different view than that taken by the trial Court and to reagitate the matter. As such, present application by State for leave to file appeal is dismissed and accordingly disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)

CERTIFICATE

Certified to be true and correct copy of the original signed order.