

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.  
APPELLATE SIDE JURISDICTION

**CRIMINAL APPLICATION NO. 2818 OF 2015**

THE STATE OF MAHARASHTRA  
VERSUS  
PRADEEP SAKHARAM POGHE

...  
APP for Applicant : Mrs. R. K. Ladda.  
Advocate for Respondent : None.  
...

CORAM : **INDIRA K. JAIN, J.**  
DATE : 14<sup>th</sup> March, 2016.

P.C.:

. Here is an application under Section 378 (1) (3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment and order of acquittal passed by the learned Additional Sessions Judge, Aurangabad on 22<sup>nd</sup> January, 2015 in Sessions Case No.255 of 2012 for the offences punishable under Sections 376, 420, 323, 504 and 506 of the Indian Penal Code.

2 Heard Mrs. R. K. Ladda, learned APP for Applicant / State. None for Respondent. Perused record.

3 It is the case of prosecution that prosecutrix was a teacher aged about 35 years at the time of alleged incident.

Accused was to implement Vidya Vardhini Scientific Test Series Educational Curriculum. As per the advertisement prosecutrix joined the course since 27<sup>th</sup> November, 2008. After joining course she came in close contact of the Accused. It is alleged that Accused promised the prosecutrix to marry her and under the pretext of false promise sexually assaulted her from 27<sup>th</sup> November, 2008 to 28<sup>th</sup> March, 2010.

4           On 27<sup>th</sup> September, 2010 prosecutrix reported the incident to Mukundwadi Police Station, Aurangabad. Crime was registered against the Accused. After investigation charge-sheet was submitted to learned Judicial Magistrate First Class, Aurangabad who in turn committed the case for trial to the Court of Sessions.

5           Charge was framed against the Accused. He pleaded not guilty and claimed to be tried. Prosecution examined in all five witnesses. Considering the evidence of prosecutrix and the facts elicited in cross-examination Trial Court came to the conclusion that it was a case of consent and therefore negated the charge of alleged commission of rape, cheating and criminal intimidation.

6            This Court with the assistance of learned APP has gone through the evidence of prosecution witnesses. It can be seen from the evidence of prosecutrix that from 24<sup>th</sup> July, 2009 to 28<sup>th</sup> March, 2010 she moved with the Accused to various places at Aurangabad, Shegaon, Kaij District Beed and stayed together in different hotels. Prosecutrix was a teacher by profession. No previous complaint was lodged against the Accused. The conduct of prosecutrix was self speaking to show that she voluntarily participated in sexual acts and Accused did not induce her under a false promise of marriage as alleged in the complaint.

7            In the above premise this Court does not find any arguable case for the State. Hence the following order -

### **ORDER**

Criminal Application No.2818 of 2015 stands dismissed.

**[ INDIRA K. JAIN, J. ]**