

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 357 OF 2002

Ranba S/o Kishan Pawale

Age : 24 years, Occu.: Labourer,

R/o : Umarai, Tq. Ambajogai,

Dist. : Beed

.. Appellant/
Accused

Vs.

The State of Maharashtra

Through Police Station,

Dharur, Tq. Dharur,

Dist. Beed

.. Respondent

Mr. V.D. Salunke, Advocate for the appellant

Mr. A.R. Kale, A.P.P. for the respondent/State

CORAM : M.T. JOSHI, J.

DATE : 26/02/2016

ORAL JUDGMENT :

Heard both sides.

2. The present appellant was convicted by the learned IInd Additional Sessions Judge, Ambajogai vide judgment and order dated 14/06/2002 passed in Sessions Case no. 55 of 1995, for the offence punishable under section 304 Part-II of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for 5 years and to pay a fine of Rs.1000/-, in default to suffer further rigorous imprisonment for a period of six months.

3. According to the prosecution, at the time of commission of the offence i.e. on 02/07/1996, the present appellant was 17 years old. Necessary documents like school leaving certificate was also collected by the Investigating Officer and was proved at Exhibit 27 in the case.

4. In the circumstances, Mr. Salunke, learned counsel for the appellant relies on the ratio in the case of **"Ketankumar Gopalbhai Tandel Vs. State of Gujarat"** 2013 (4) Bom. C.R. (Cri.) 56 and the true copy of the judgment dated 03/02/2016 delivered by this Court in Criminal Appeal No. 234 of 2000, wherein this Court had an occasion to deal with the similar situation.

5. In view thereof, the benefit of the Juvenile Justice (Care and Protection of Children) Act, 2000 would also be available to the appellant, who was above 16 years of age but below 18 years of age at the time of commission of the offence. Copy of the aforesaid judgment dated 03/02/2016 is taken on record and marked as **"X"** for the purpose of identification.

6. According to the rules, the case would be required to be relegated to the Juvenile Justice Board, however, since the appellant is now 37 years old, any order that would be ultimately passed by the Juvenile Justice Board would be of no consequence. In the circumstances, the following order:-

7. Criminal Appeal is hereby allowed.

8. The impugned judgment and order dated 14/06/2002 passed by the learned II Additional Sessions Judge, Ambajogai in Sessions Case No. 55 of 1997, convicting the present appellant for the offence punishable under section 304 Part-II of the Indian Penal Code, is hereby set aside. Instead, the appellant is acquitted of the offence. His Bail bonds shall stand cancelled.

[M.T. JOSHI]
JUDGE

arp/