

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

9 CRIMINAL APPLICATION NO. 3691 OF 2014

THE STATE OF MAHARASHTRA  
VERSUS  
RAJKUMAR NARAYAN SWAMI & ANR

...  
Mr. B. V. Virdhe Public Prosecutor for Applicant  
Advocate for Respondent 1: Mr. A. H. Kasliwal

. . .

CORAM : S.S. SHINDE &  
K.K. SONAWANE, JJ.

DATE : 1ST DECEMBER, 2016.

**PER COURT:**

1] Learned APP for the State invites our attention to the depositions of witnesses and the medical evidence and in particular, evidence of the PW-1 prosecutrix and submits that their evidence is not properly considered by the trial court.

2] On the other hand, learned counsel for the respondents, relying upon the evidence of the prosecution witnesses and in particular, the cross-examination of PW-1 prosecutrix and also the evidence of Medical Officer, submits that the benefit of doubt is rightly extended by the trial court. Therefore, this Court may not entertain this application.

3] Upon hearing learned APP, learned counsel for the respondent and upon perusal of the evidence of the prosecution witnesses and in particular, PW-1 and PW-3, we are of the prima facie opinion that their evidence is not properly appreciated by the trial court. Hence, the application seeking leave to appeal is allowed. Same stands disposed of.

4] Appeal is admitted. On admission, Advocate Mr. Kasliwal waives service for respondent. Action under Section 390 of Cr.P.C. to follow before the Sessions Court, Kandhar, Dist. Nanded.

**[K.K.SONAWANE]**  
**JUDGE**

**[S.S. SHINDE]**  
**JUDGE**

grt/-