

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3571 OF 2015

The State of Maharashtra,
Through Police Inspector,
Kotwali Police Station, Ahmednagar,
Dist-Ahmednagar.

...APPLICANTS

VERSUS

Ashok Umaji Salve,
Age-63 yeas, Occu:Retired Railway Employee,
R/o-Ramabai Colony, P.I. Lokhande Marg,
Chembur, Mumbai.

...RESPONDENT

...
Mr. A.R. Borulkar, A.P.P. for Applicant.
...

**CORAM: S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.**

DATE : 19TH OCTOBER, 2016

ORAL ORDER [PER SANGITRAO S. PATIL, J.] :

. Heard the learned A.P.P. Perused the
statements of the witnesses and the judgment
proposed to be challenged.

2. The alleged incident of rape is stated to have been committed between 15th August 2007 and 3rd October 2007. The report in respect of the said incident has been lodged on 10th October 2007 by the mother of the prosecutrix. No explanation at all has been assigned for the delay in lodging the report. It is stated that the prosecutrix is mentally retarded. However, from the evidence of the prosecutrix recorded by the trial Court, it would be clear that she has given rational answers to the questions put to her. She has faced long drawn cross-examination. From her statement, it cannot be said that she is a mentally retarded person. Even the learned trial Judge also has not raised any doubt about the fitness and competency of the prosecutrix to depose before the trial Court as a witness.

3. There is no medical evidence to substantiate the case of the prosecution about the

alleged incidents of rape committed by the Respondent. There is specific mention in Para 6 of the deposition of the prosecutrix that earlier the F.I.R. was lodged by her parents against three persons for ravishing her. She further admits that the said rape case was settled by her parents on receiving money from them. In Para 8 of her deposition, the prosecutrix deposes that her mother i.e. informant, had contacted the Respondent on phone and asked him to come to Nagar to settle the matter. From this evidence of the prosecutrix a strong doubt is created about the incidents of rape as alleged against the Respondent.

4. The learned trial Judge has rightly considered the facts of the case and rightly appreciated the evidence that has been produced by the prosecution on record. The inferences drawn by the trial Judge are well founded.

5. In the circumstances we are not inclined to allow this Application. The Application seeking leave to file Appeal against the acquittal is rejected.

[SANGITRAO S. PATIL, J.]

asb/OCT16

[S.S. SHINDE, J.]