

Ladda P.S.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 85 of 2014.

Mr Gopinath Bholanath Soni

..Applicant.

Vs

Dilip Sudam Waghmare & Anr

..Respondents.

Mr Anant Vadgaonkar for the Applicant.

Mr Vikas Kolekar for the Respondent.

Smt. G.P. Mulekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 19TH JULY, 2016.

P.C.

- 1) This is an application for leave to file appeal under section 378 (3) of Criminal Procedure Code, 1973 against the impugned Judgment and Order dated 20th December, 2013 passed by the learned Ad-hoc District and Assistant Sessions Judge, Thane in Sessions Case No. 309 of 2013 thereby acquitting the respondent no.1 for the offences punishable under sections 363, 366, 342, 323, 493 of the Indian Penal Code.
- 2) Heard the learned counsel for the applicant and the learned advocate for the respondent no.1 and also perused the record annexed to the present application.
- 3) The record reveals that the applicant herein is the original complainant. The applicant had filed the private complaint bearing

O.M.A. No. 220 of 2011 in the Court of the Judicial Magistrate, First Class, Thane for the offences punishable under sections 323, 342, 361, 366, 493, 497, 498, 504, 506 (II), 507 read with Section 34 of the Indian Penal Code against the accused.

4) The Judicial Magistrate, First Class, Thane passed an Order under section 156 (3) of the Code of Criminal Procedure Code. The police after conducting investigation submitted a charge-sheet before the Trial Court. The Trial Court framed the charge and recorded the evidence of the prosecution witnesses. The learned Trial Court after hearing the parties to the said case was pleased to acquit the accused from the charges framed against him. It is the prosecution case, that the wife of the complainant Gopinath namely Smt. Lata Soni was abducted by the respondent no.1 along with his daughter Priya. The said Priya was 12 years of age at the relevant time. It is the further case of the prosecution that the respondent no.1 thereafter performed marriage with the said Smt. Lata Soni and, therefore, after completion of investigation the charge-sheet under the aforesaid sections was filed.

5) In his examination-in-chief itself the complainant Gopinath Soni has given a categorical admission that the police had brought his wife to the police station and had asked the complainant to take his wife and daughter along with him. However, his wife refused to go along with the

complainant and went along with the accused. The evidence of other witnesses also did not support the prosecution case. It appears from the record that the wife of the complainant along with her daughter Priya at her own free will went to cohabit with the respondent No.1. That the daughter Priya was minor at that relevant time and was in the custody of her lawful guardian i.e. her mother. There is no question of abduction and/or taking away the said minor from the custody of the complainant by any deceitful means by the respondent no.1. The learned Judge after taking into consideration the entire evidence available on record has recorded the finding of acquittal of the respondent no.1. In view of the facts of the present case and evidence on record, I am of the considered opinion that the finding recorded by the Trial Court is a probable view adopted by it. I find no merits in the application and is accordingly dismissed.

(A.S. GADKARI, J.)