

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.975 OF 2016

IN

CRIMINAL APPEAL NO.536 OF 2016

AKASH BALU LOKHANDE

)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.M.K.Kocharekar, Advocate for the Appellant.

Mr.A.R.Patil, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 20th AUGUST 2016.

P.C. :

1 This application is filed for suspension of conviction and sentence imposed upon applicant / accused no.3 by the learned Additional Sessions Judge, Khed, in Special Case No.7 of 2014, vide which, he was sentenced to suffer rigorous imprisonment for 4 years and to pay a fine of Rs.1,000/-, in default, to suffer rigorous imprisonment for 2 months, for the offence punishable under Section 363 of the IPC.

2 Perused the record and proceedings, where from it appears that applicant was tried along with two other co-accused for the offences punishable under Sections 363, 366A and 376 of Indian Penal Code and under Sections 4, 6, 8 and 10 of Protection of Children from Sexual Offences Act, 2012, (POCSO Act). Applicant is acquitted of all the charges except for the offence punishable under Section 363 of IPC and is sentenced as aforesaid.

3 According to applicant, he was on bail pending trial. On instructions, learned APP makes a statement that there are no criminal antecedents and it is no case of prosecution that while on bail, applicant has jumped any of the conditions imposed upon him. Moreover, learned trial court had noted that there is no material on record to show that applicant (accused no.3) had intention that the victim may be compelled, or forced or seduced to illicit intercourse with co-accused or with any person, and has thus, held that prosecution has failed to establish ingredients of Section 366A of IPC against the applicant, and thus found him guilty of offence punishable under Section 363 of IPC, and has sentenced applicant as aforesaid.

4 Having considered the facts as above, and since applicant is awarded short sentence, application is liable to be allowed as per order below :

- i) Substantive sentence imposed upon applicant Akash Balu Lokhande is suspended pending trial.
- ii) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- iii) Applicant shall mark his presence with Junnar Police Station, District Pune, once in three months, on first day of such month, until further orders.

(P. N. DESHMUKH, J.)