

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1206 OF 2015

IN

CRIMINAL APPEAL NO.954 OF 2015

UMESH SANTOSH CHAVAN

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Smt.Anjali Patil a/w. Shri Arun Rajput, Advocate for the Applicant.

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

WITH

CRIMINAL APPLICATION NO.1288 OF 2015

IN

CRIMINAL APPEAL NO.1008 OF 2015

KETAN ASHOK SONAWANE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Shri Aniket U. Nikam, Advocate for the Applicant.

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

CORAM : ABHAY M. THIPSAY, J.

DATE : 2nd APRIL 2016.

P.C. :

1 These two applications for suspension of sentences filed in two separate appeals can be conveniently disposed of by this common order, as the applicants / appellants in both these appeals were convicted on a single trial held by the Additional Sessions Judge. The applicant / appellant in Criminal Appeal No.954 of 2015 was the accused no.3 and the applicant / appellant in Criminal Appeal No.1008 of 2015 was the accused no.2 in the trial court. They both have been convicted of offences punishable under Section 376 and Section 342 of the Indian Penal Code (IPC), as also of offences punishable under Section 4 and Section 6 of the Protection of Children from Sexual Offences Act (POCSO Act), and have been sentenced to various terms of imprisonment. The sentences were directed to run concurrently, and as such, the highest term of imprisonment that the appellants are required to undergo is of 10 years.

2 I have heard Shri Aniket Nikam, the learned counsel for the applicant in Criminal Application No.1288 of 2015. I have

heard Smt.Anjali Patil, the learned counsel for the applicant in Criminal Application No.1206 of 2015, who relied on the submissions made and the contentions advanced by Shri Aniket Nikam in Criminal Application No.1288 of 2015, as the case of the applicants in both the applications is similar.

3 Shri Nikam raised a number of contentions. According to him, there was no satisfactory evidence of the age of the victim. He pointed out that the father of the victim, though was examined as a witness, did not speak about her date of birth, and that, the school record was not satisfactorily established. He also submitted that the medical evidence belied the theory of the prosecutrix having suffered forcible sexual intercourse with six to seven person, as claimed by her. It is also contended that the evidence and testimony of the prosecutrix is discrepant and does not fit in with other evidence.

4 Though these points are indeed arguable, and need consideration, I find that the determination of these points would

need a rather finer discussion and analysis of the evidence, which I am not inclined to undertake at this stage, particularly because, the applicants / appellants were in custody during the trial. Moreover, the possibility of taking up the appeals for final hearing expeditiously, was discussed in the course of arguments. When this was discussed, the learned counsel for the applicants / appellants in both the applications, on instructions, sought permission to withdraw the applications.

5 The applications are allowed to be withdrawn and stand dismissed as such. However, the hearing of the appeals is ordered to be expedited.

6 Liberty to the applicants / appellants to furnish a private paper book.

Liberty to the applicants / appellants to move the court for getting a date for final hearing of the appeals fixed, after the paper books are ready.

(ABHAY M. THIPSAY, J.)