

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 **CRIMINAL APPLICATION NO. 3312 OF 2017**

THE STATE OF MAHARASHTRA

VERSUS

PRAMOD @ PAMYA S/O. ASHOK KANKUTE AND ANR

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A.P.P. for Applicant/State : Mr. R.V. Dasalkar
Advocate for Respondent No.2 : Mr. S.A. Gaikwad

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CORAM : T.V. NALWADE, J.

DATE : 21st DECEMBER, 2017

PER COURT :

This is an application filed for grant of leave to file appeal against the Judgment and order passed in Sessions Trial No.99 of 2015 which was pending in the Court of learned Sessions Judge, Parbhani. Heard the learned A.P.P.

2. The trial Court has convicted the accused No.1 Kailas Lokhande for the offence of rape. Present respondents Pramod @ Pamyra and Deepak @ Jugnu @ Juganya are acquitted by the trial Court. The reasoning given by the learned trial Court shows that

when the evidence of prosecution witnesses was being recorded, the victim a mentally retarded girl was having assistance of psychologist and she was not in position to identify the present respondents. The evidence was recorded after two years of date of incident. The evidence of one maternal aunt PW 4 Gangubai and Vinod Kanchole, who is cousin of Poornima was recorded. Their evidence show that in the initial enquiry when it was noticed that victim was pregnant, she had taken name of Kailas/accused No.1, who is convicted. The D.N.A. test was taken of accused No.1 Kailas as the victim had delivered the child. The action against accused No.1 Kailas was taken after her delivery. In view of this circumstance, this Court holds that the view taken by the trial Court is probable view, so leave to file appeal against respondents i.e. accused Nos.2 and 3 is required to be rejected. In the result, application stands rejected.

(**T.V. NALWADE, J.**)

