

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 36 OF 2017

SHRI. AVELINO PINTO, PRESENTLY
LODGED IN CENTRAL JAIL, COLVALE., ... Appellant

Versus

THE STATE OF GOA, THR. POLICE
INSPECTOR, CRIME BRANCH., ... Respondent

Shri Sukant Halankar, Advocate for the appellant.
Shri S.R.Rivankar, PP for the respondent.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 13th September 2017

P.C.

By this appeal, the appellant has challenged his conviction and sentence dated 29.6.2017 passed by the Children's Court, Goa in Special Case No.2/2004 by which he has been directed to undergo rigorous imprisonment for 10 years under Section 376 of IPC and 3 years Rigorous imprisonment under Section 354 of IPC along with fine of Rs.Two lakhs and Rs. Twenty five thousand respectively.

2. This Court in Criminal Writ Petition No.21/2017 preferred by the appellant himself by judgment dated 27.2.2007 directed the Children's Court to dispose of Sessions Case No.9/2008 which was withdrawn from the file of learned Additional Sessions Judge along with Special Case No.2/2004 in order to

avoid conflicting decisions in the light of the fact that from the charge-sheet it revealed that the petitioner was accused in both the cases and so also the complainant and respondent no.2 in the said Criminal Writ Petition. However, the learned Children's Court did not follow the directions and, instead disposed off Special Case No.2/2004, for which her explanation was called for, for non-compliance of the order passed in aforesaid Criminal Writ Petition No.21/2017.

3. By Criminal Misc.Application No.225/2017, it is contended before this Court by the applicant that either Criminal Appeal No.36/2017 before this Court be expedited or in the alternative pending hearing of Criminal Appeal No.36/2017, the proceedings in Sessions Case No.9/2008 be stayed in order to avoid future complications.

4. The learned Public Prosecutor Shri S.R.Rivankar as well as learned counsel appearing for the appellant have fairly consented for quashing the impugned judgment and order of conviction passed in Special Case No.2/2004 and remanding the matter back to the trial Court and to decide both the matters in the light of the directions issued in Criminal Writ Petition No.21/2017.

5. As such, the judgment and order of conviction and sentence passed in Special Case No.2/2004 of the President, Children's

Court on 29.6.2017 is hereby set aside and the matter is remanded back to the Special Court to be dealt with in accordance with the directions issued in Criminal Writ Petition No.21/2017. The appellant shall appear before the Special Court on 29.9.2017 at 10.30 a.m.

6. In view of the aforesaid directions, Criminal Appeal stands disposed of.

7. Authenticated copy be supplied to the parties.

PRITHVIRAJ K. CHAVAN, J.

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