

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1480 OF 2016
IN
CRIMINAL APPEAL NO.758 OF 2016**

Sambhaji Shamrao Londhe)...Applicant

**V/s.
State OF Maharashtra)...Respondent**

Mr. Aditya A. Desai, Advocate for the Applicant.

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

CORAM : A. M. BADAR, J.

DATE : 11th JANUARY 2017.

P.C. :

This is an application for suspension of sentence and releasing the applicant-accused on bail during the pendency of the appeal.

2 Heard learned counsel appearing for the applicant-accused. He argued that applicant-accused is acquitted of offence punishable under Section 376 of the IPC and he is convicted of the offence punishable under Section 506(II) of IPC and is sentenced to suffer SI for six months apart from direction to pay

compensation of Rs.2 Lakhs to the victim of the crime in question.

3 The learned counsel for the applicant-accused argued that surprisingly though the applicant-accused is convicted of the offence punishable under Section 506(II) of the IPC, he is not directed to pay any fine for that offence. However, though he is acquitted of the offence punishable under Section 376 of IPC, he is directed to pay compensation of Rs.2 Lakhs to the alleged victim of the crime in question. This approach according to the learned counsel for the applicant-accused by the learned trial Court is per-se illegal.

4 The learned APP opposed the application by contending that the applicant-accused should atleast deposit amount of compensation before this Court.

5 I have carefully considered rival submissions. I have also perused the evidence adduced by the prosecution as well as the impugned judgment and order. Allegations against the applicant-accused were to the effect that he had committed rape on the victim of the crime in question apart from intimidating her.

After due trial, applicant-accused is acquitted of the offence punishable under Section 376 of IPC. Though he is convicted of the offence punishable under Section 506(II) of IPC, no fine is imposed upon him for that offence. However, he is directed to pay compensation to the victim with a reasoning that applicant-accused is financially in sound position and the victim has suffered a lot. Prima-facie, this Court is unable to endorse such a reasoning and, therefore, considering the provisions of Section 357(2) of the Cr.P.C., upon admission of the appeal, applicant-accused need not be directed to pay amount of compensation particularly when no fine was imposed upon him for the offence proved against him.

6 Considering the short sentence imposed upon him and the offence allegedly proved against him, he deserves liberty and, therefore, the order:

- (1) Application is allowed.
- (2) The substantive sentence of imprisonment imposed upon the applicant-accused is suspended and he is directed to be released on bail on executing PR bond in the sum of

Rs.15,000/- and on furnishing surety in the like amount.

7 Application stands disposed of accordingly.

(A. M. BADAR, J.)