

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

**CRIMINAL APPLICATION (APPA) NO. 797/16 IN CRIMINAL APPEAL NO. 129
OF 2015.**

(Sau. Nayana w/o Narayan Irabtanwad .vs. The State of Maharashtra & another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. J.Y. Ghurde, A.P.P. for respondent no.1.

CORAM : B.R. GAVAI & KUM. INDIRA JAIN, JJ.

DATED : JANUARY 4, 2017.

Heard Mr. S.V. Sirpurkar, learned Advocate for applicant and Mr. J.Y. Ghurde, learned A.P.P. for respondent no.1.

The application is filed seeking leave to appeal against an order of acquittal for the offence punishable under Sections 376, 170 & 506 of the Indian Penal Code.

The learned Counsel for the appellant victim submits that the learned trial Judge has failed to take into consideration that the accused/respondent no.2 had forcibly committed sexual intercourse with the appellant projecting himself to be a Police Sub Inspector.

We have perused the evidence of the prosecutrix. It is the version of the prosecutrix that on 26th when she came from Akola to Washim, the accused forcibly took her to her own house and committed sexual intercourse on the same day and thereafter continued to do so for four days. However, the perusal

of the cross-examination itself would reveal that during those four days the prosecutrix had herself accompanied the accused to various places including Ganesh temple on the day of Sankasthi Chaturthi. She has also admitted that at the temple there was huge rush. She was standing in the queue along with the accused. It is further to be noted that the prosecutrix was aged about 30 years at that point of time. Not only that but she was gainfully employed and she was prosecuting her studies as a law student.

The scope of interference in an appeal against acquittal is well-defined. Unless the view is found to be totally improbable and perverse, it is not permissible for this Court to interfere with the same, equally because two views are possible and the other view appears to be more probable to the appellate Court cannot be a ground to interfere with the order of acquittal.

The learned Sessions Judge has given cogent reasons and has found that the version of the prosecutrix does not appear to be trustworthy. We have independently examined her evidence. We do not find any reason to differ with the view taken by the learned Sessions Judge.

The Criminal Application and the Criminal Appeal are hence dismissed.

Judge

Judge

J.