

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.313 OF 2017
IN
CRIMINAL APPEAL NO.31 OF 2016

(Paresh s/o Shalikram Jichkar Vs. State of Maharashtra thr. PSO Ajni Police Station,
Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Mahesh Mourya, Advocate/APP for Applicant.
Shri N.B. Jawade, APP for Respondent/State.

CORAM: ROHIT B. DEO, J.
DATE: 12th SEPTEMBER, 2017.

The appellant who is convicted of offence punishable under section 498-A of I.P.C. has persuaded this Court to grant early hearing.

The appellant is not in jail since the sentence was suspended by this Court. Ordinarily, this Court would not have granted early hearing to the appellant. However, the appellant appears to have persuaded this Court to grant early hearing submitting that although he was not charged for section 498-A of I.P.C., he was convicted by the Trial Court for the said charge.

The submission is absolutely fallacious and indeed frivolous. The appellant was charged for offence punishable under sections 302 and 304-B I.P.C. and in the alternate for offence under section 306 of I.P.C. It is too well settled, for this Court to refer to the binding precedents

of the Supreme Court, that an accused can always be charged for a minor offence. Since the accused was charged for offence punishable under section 306 of I.P.C. and 304-B thereof, there is absolutely nothing wrong in recording a conviction under section 498-A of I.P.C. of course subject to the condition that the ingredients of section 498-A of I.P.C. are satisfied. However, merely because the accused was not charged under section 498-A of I.P.C. that cannot be a ground for seeking out of the turn hearing when this Court is hearing appeals of the year 2000-2002.

The order fixing the appeal for final hearing on a priority basis, is recalled.

Let the appeal be listed for final weekly board as per turn.

JUDGE