

(1)

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

CRIMINAL APPLICATION (APPA) NO.532 OF 2015

Ku. Rukhmini D/o Ganpatrao Gutte,
Aged 32 years, Occ. Shikshan Sevika,
R/o Dewalgaon Natthuji Pusthode
Anudanit Ashram Sala, Dewalgaon,
P.S. Navegoanbandh, Tah-Arjuni Mor,
Distt. Gondia (M.S.) ..APPLICANT

VERSUS

Nirmalkumar Motiram Shende,
Aged about 58 years, Occ. Head Master,
R/o Dewalgaon Natthuji Pusthode
Anudanit Ashram Sala, Dewalgaon,
P.S. Navegoanbandh, Tah-Arjuni Mor,
Distt. Gondia (M.S.) ..RESPONDENT

Mr H.P. Lingayat, Advocate for applicant

CORAM : N.W. SAMBRE, J.

DATE : 23rd March, 2017

ORAL ORDER

Heard learned Counsel appearing on behalf of the applicant.

2. By the present application under Section 378 (4) of the Code of Criminal Procedure, the applicant – original complainant seeks special leave to appeal for challenging the judgment and order dated 9th June, 2015, passed by Judicial Magistrate First Class, Arjuni/Morgaon, in S.C.C. No.6 of 2012, thereby acquitting the respondent – accused of offences punishable under Sections 294, 354, 506 read with Section 34 of the Indian Penal Code.

(2)

3. The prosecution case, as could be gathered from the material on record is, at the relevant time the applicant-complainant was employed as Shikshan Sevika at Ashram school of which the respondent-accused was Head Master. There is another Ashram school located at about 2 Kms. Away from the said school and there was tough competition between these two schools *qua* admitting the number of students. It is further the case of the prosecution that after appointment of the applicant from N.T. Category, the respondent – accused used to abuse her in filthy language and demanded sexual favours, resulting into registration of the crime.

4. In order to unfold the story of the prosecution, the applicant-complainant examined herself as P.W.1, one Pankaj (P.W.2), an employee of another Ashram school, Roopchand (P.W.3), the Superintendent of another Ashram school, Jitendra (P.W.4), ex-employee of the Ashram school of which the respondent – accused was Head Master, Maroti (P.W. 5), husband of the complainant and Laxman (P.W.6), maternal uncle of the complainant.

5. The defence of the respondent – accused was, the applicant was set-up by competitor Ashram school, so as to falsely implicate him in the crime in question and to take over the management of the said Ashram school. It is also claimed that there is no iota of evidence so as to infer *prima facie* involvement of the respondent – accused in the crime in question.

(3)

6. Upon perusal of the evidence of P.W.1 complainant and P.W.5 Maroti, husband of the applicant, it is required to be noted that the incident alleged to have taken place on 22nd December, 2010 was narrated in the first information report with delay, which is not at all explained. Apart therefrom, the evidence of P.W.5 is not specific and vague in nature. So far as P.Ws. 2, 3 and 4 are concerned, they claim to be chance witnesses available for witnessing the incident in question. Upon analyzing the evidence of the said witnesses, in my opinion, the learned Trial Court has rightly discarded the same.

7. In the light of above and upon appreciation of evidence on record, in my opinion, the view taken by the learned Trial Court appears to be a possible view. In view thereof, no case for interference in the acquittal recorded by the learned Trial Court is made out. Leave refused. In the result, Criminal Application stands rejected.

(N.W. SAMBRE, J.)

amj