

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

CRIMINAL APPLICATION NO. 3933 OF 2016

The State of Maharashtra
through : Nijampur Police Station, Tq.
Sakri Dist. Dhule

... **Applicant**

VERSUS

Dr. Hemant Hari Patil,
Age : 50 years, Occu : Labour,
R/o. Near Vitthal Temple, Nijampur,
Tq. Sakri Dist. Dhule.

... **Respondents**
(Ori. accused)

Mr. R. V. Dasalkar for the Applicant.

**CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.**

DATE: : 07th August, 2018

JUDGMENT (Per K. L. Wadane, J.):

1. The present application is filed by the applicant – State under the provision of Section 378 (1) (b) of the Code of Criminal Procedure to file an appeal against the judgment and order dated 07.05.2016 passed by the learned Additional Sessions Judge, Dhule in Sessions Case No. 1 / 2013 for the

offences punishable under Section 376, 417, 506 of the Indian Penal Code. The respondent herein is tried for the offences leveled against him as indicated above.

2. The complainant PW-1 lodged a complaint to the police station alleging that the respondent committed rape on her from time to time by giving threats of uploading her obscene photographs on the Internet.

3. In order to establish the offences leveled against the respondent, the prosecution has examined in all 10 witnesses. PW-1 is the prosecutrix, PW-2 and PW-3 are the doctors who examined the prosecutrix as well as respondent. PW-No. 4 Mayur Sindhi is Panch to spot panchnama, PW-5 Mr. Harischandra Rao, PW-6 Ravish Mulki, PW-7 Narendra Sonawane, WP-9 Shririshkumar Panmal, PW-10 Sanjay Jambhale are the managers of the various hotels at Malegaon, Nashik, Igatpuri, Matheran, Mahabaleshwar and Lonawala. All these witnesses were examined to established that the respondent and the prosecutrix resided in various places in the lodge where the respondent has allegedly committed raped on her. We have heard the arguments of the learned APP for the State and also gone through the evidence of record. Particularly, on perusal of the oral evidence of the prosecutrix and her cross-examination, it appears that the prosecutrix, at the relevant time of the alleged rape, was aged about 36 years and the period of

the alleged rape is stated to be from March 2009 to 2011 for about 4 years.

4. According to the prosecutrix, she was not consented for the sexual intercourse with the respondent, however, from time to time, the respondent gave threats of showing her obscene photographs on Internet by way of MMS. At the first instance, she had been to the dispensary of the respondent for the medical check up, at that time, the respondent administered her some tablets due to which the applicant was suffering from the giddiness and considering that giddiness the respondent has snapped obscene photos of the prosecutrix. By assurance of returning of those photographs, the respondent had committed rape on her. On perusal of the record, it appears that it is not a single instance of a sexual intercourse between the prosecutrix and respondent but it was a series of instances from place to place, therefore, basically its hard to digest that the respondent had committed rape under the threat of uploading such photographs on the Internet. The story narrated by the prosecutrix about obtaining her consent under the fear of threats appears to be inherently improbable. From such conduct of the prosecutrix, it appears that on the call of respondent she went along with him from place to place such as Malegaon, Nashik Igatpuri, Matheran, Mahabaleshwar and Lonawala but during that period she does not disclosed any thing to anybody. PW-8 is the brother of the prosecutrix who deposed about the disclosure, however, the basic story of the prosecutrix as to

the consent obtained under the fear of threat is highly improbable, unbelievable, therefore, the trial court rightly assessed the entire evidence on record and has rightly acquitted the respondent. Hence, no interference is called for, no case is made out to grant any relief to file an appeal. Hence petition is dismissed.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

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