

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 286 OF 2013
WITH
CRIMINAL APPLICATION NO. 114 OF 2018
IN
CRIMINAL REVISION APPLICATION NO. 286 OF 2013**

Ganesh Prakash Gurav

....Applicant

Vs.

Sr. Inspector of Police,
Santacruz Police Station & Anr.

....Respondents.

Mr. Lokesh Zade for the Applicant.

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

CORAM : A. S. GADKARI, J.

DATE : 29th AUGUST, 2018.

P.C.:-

The present Revision is directed against the impugned Order dated 27th June, 2013 passed below Exhibit-4 in Sessions Case No. 281 of 2013 by the learned Additional Sessions Judge, Greater Mumbai.

2 Heard the learned counsel for the Applicant and the learned APP. Perused the charge sheet.

3 By the impugned Order, the Application preferred by the Applicant, under Section 227 of the Code of Criminal Procedure for discharge from the said Sessions Case No. 281 of 2013, has been rejected by the Trial Court.

4 The prosecution case is that, the Applicant along with other accused persons committed an offence as contemplated under Section 376 (2)(g) and other allied Sections of the Indian Penal Code with the prosecutrix. After the prosecutrix was unable to bare her sexual exploitation at the hands of the Applicant and other accused persons, she informed the said fact to her husband and thereafter the present Crime No. 292 of 2012 was registered on 19th June, 2012 with Santacruz Police Station under Sections 376 (2)(g), 452, 342, 506 (ii) of the Indian Penal Code.

5 The learned counsel for the Applicant submitted that, as a matter of fact the other 5 accused persons have been acquitted by the Trial Court by its Judgment and Order dated 25th February, 2016 and therefore, the Applicant deserves to be discharged from the said case.

6 It is needless to mention here that, the Order impugned herein is challenging the rejection of discharge of the Applicant under Section 227 of the Code of Criminal Procedure. It is because of the stay granted to the trial *qua* the Applicant by this Court in the present Application by its Order dated 20th August, 2013, the Applicant was not tried and therefore, the Applicant now cannot take benefit of the said acquittal of the other accused persons.

7 The perusal of record would indicate that, during the course of investigation, the name of the Applicant as one of the accused persons who also committed rape upon the prosecutrix, is revealed. The police have seized call detail record of the prosecutrix and the Applicant, which indicate that the Applicant had been in contact with the prosecutrix in wee hours and there were exchange of calls between the prosecutrix and the Applicant.

Prima facie, there is sufficient material to proceed with the Applicant to frame charge under Section 228 of the Code of Criminal Procedure.

The Revision Application is accordingly rejected.

8 In view of disposal of Revision Application No. 286 of 2013, the Criminal Application No. 114 of 2018 for expeditious hearing of Revision does not survive and is also accordingly disposed off.

(A.S. GADKARI, J.)

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