

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (APPA) No.230/2018
in
Criminal Appeal no. _____/2018
(The State of Maharashtra through PSO PS Kholapurigate, Amravati .vs.
Jagdish Vitthalrao Bansod)

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

Mr. Vishal Gangane, APP for Applicant.
Mr. A.J. Mirza, Advocate for Respondent.

CORAM : Manish Pitale, J.
DATED : August 09, 2018.

Heard Mr. Gangane, learned Additional Public Prosecutor, appearing on behalf of the applicant-State.

It is pointed out that the Magistrate in the first instance convicted the respondent for offence punishable under Section 354 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year and to pay a fine of Rs.500/-, but by the impugned order, the Sessions Court has allowed the appeal and set aside the conviction and sentence imposed upon the respondent.

It is pointed out that the Sessions Court has simply stated in one line that the evidence of the complainant PW1 does not inspire confidence and that proper opportunity to cross-examine the complainant was not given. Copies of depositions have been placed on record. They show that the evidence of the complainant PW1 was recorded on 28.04.2012 and the Court recorded that the advocate for the accused

remained absent though called repeatedly and hence no cross-examination of the complainant took place. Thereafter evidence of the other prosecution witnesses was recorded between 28.05.2012 and 11.09.2012. No attempt appears to have been made on behalf of the respondent (accused) to raised grievance regarding opportunity not being granted for cross-examining the complainant PW1. In these circumstances, the applicant-State has made out ground for grant of leave to appeal. Hence this application is allowed and leave is granted. The appeal is directed to be registered.

Criminal Appeal No. _____/2018.

Heard.

Admit. Call for R. & P.

Since this appeal involves a short issue, list for final disposal in the month of October, 2018.

Action under Section 390 of the Code of Criminal Procedure be taken.

JUDGE

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