

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

CRIMINAL APPLICATION (APPA) NO. 900/2017
AND
CRIMINAL APPEAL NO. _____/2017

State of Maharashtra

..VS..

Samadhan Kisan Gond

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

Court's or Judge's orders

Shri V.P. Gangane, APP for the applicant/appellant

CORAM : Z.A.HAQ, J.

DATED : 26/09/2018

The State has filed this appeal to challenge the judgment passed by the learned Magistrate acquitting the respondent/accused of the charge of commission of the offence punishable under Section 354 of the Indian Penal Code. This application is filed praying for grant of leave to file the appeal.

By the order dated 23/11/2017, this Court directed issuance of notice to the non-applicant/respondent. The office note shows that report of service of notice on the non-applicant/respondent is awaited.

With the assistance of the learned APP, I have examined the matter on merits.

According to the prosecution, the accused (aged about 71 years at the time of the incident) committed the offence on the victim (aged about 1 ½ year at the time of the incident). The prosecution has examined six witnesses, out of which two are Panch witnesses, one is the Investigating Officer and one is the Medical Officer. Out of the other two

witnesses, one witness is the informant and the other witness is neighbour of the informant.

Looking to the nature of accusations and the nature of incident, in my view, the evidence of the Medical Officer/Dr. Rupali (P.W-6) has to be given due weightage. The learned Magistrate has considered the evidence of Dr. Rupali (P.W-6) and discussed it in para no. 15 of the impugned judgment. The evidence of this witness does not support the claim of the prosecution.

The defence has been able to point out certain relevant contradictions in the evidence of Anuradha Kailas Gond (P.W-3).

After examining the material, I find that the conclusions of the learned Magistrate are based on proper appreciation of evidence on record and cannot be faulted with.

I see no reason to interfere with the impugned judgment.

The application is **dismissed**. Consequently the appeal is **rejected**. No costs.

JUDGE

Ansari