

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

Criminal Application (APPA) No.981 of 2017

In

Criminal Appeal No.576 of 2017

[Pradeep Sunil Bawane v. The State of Maharashtra, through its Police
Station Officer, Police Station, Gadchandur, Tah. Korpana, District
Chandrapur]

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

Shri A.A. Dhawas, Advocate for Applicant/Appellant.
Ms T.H. Udeshi, Additional Public Prosecutor for Respondent.

Coram : R.K. Deshpande & M.G. Giratkar, JJ.

Date : 23rd January, 2018

This application filed under Section 389(1) of the Code of Criminal Procedure is for suspension of sentence and release of the accused on bail. The accused is convicted for the offences punishable under Sections 376 and 417 of the Indian Penal Code and he is sentenced to suffer life imprisonment for the offence punishable under Section 376, and rigorous imprisonment for one year for the offence punishable under Section 417 of the Indian Penal Code.

The FIR was lodged on 19-11-2011. During the course of trial, DNA report was obtained, which is at Exhibit 53. Shri Dhawas, the learned counsel for the applicant-accused, invited our attention to Exhibit 68, the application for grant of permission to examine the Chemical Analyzer as the defence witness, stating therein that there are discrepancies in the DNA report. The Sessions Court rejected the said application.

In spite of repeated queries, the learned counsel for the applicant-accused could not point out to us the defence raised to the effect that there was a consent. The genuineness of the DNA report at Exhibit 53 is not questioned. This report shows that the applicant-accused and the victim both are the biological parents of the child Gunjan. The presumption under Sections 293 and 294 of the Code of Criminal Procedure is available. The victim was aged about 16 years at the time of incident and she begotten a female child Gunjan.

In view of above, we do not find any reason to allow this application, as the conviction has already been recorded by the Sessions Court.

The criminal application is rejected. The learned counsel for the applicant-accused is directed to pay the costs of Rs.1,000/- to the High Court Bar Association for repeatedly intervening in the dictation of the order.

(M.G. Giratkar, J.)

(R.K. Deshpande, J.)

Lanjewar