

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.492 OF 2018

The State of Maharashtra,
(Through Karveer Police Station,
District – Kolhapur)

... **Appellant**

Versus

Shri.Nandu Shantaram Jagtap,
Age – 27 years, R/o. - Vadanage,
Tal. Karveer, District – Kolhapur.

... **Respondent**

.....

Mr.A.R.Kapadnis, APP for the Appellant/State.

....

CORAM : A.M.BADAR J.

DATED : 4th SEPTEMBER 2019.

ORAL JUDGMENT :

1 By this Appeal, the State is seeking enhancement of sentence imposed on respondent Nandu Shantaram Jagtap by the learned Sessions Judge, Kolhapur vide Judgment and Order dated 08/09/2015 passed in Sessions Case No.82 of 2013. The respondent was held guilty of the offence punishable under Section 363 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for one years and to pay the fine of Rs.10,000/- and default sentence of simple imprisonment for one

month.

2 Heard the learned Additional Public Prosecutor for the State and perused the record made available.

3 The respondent No.1 along with other accused persons came to be charged for offences punishable under Sections 363, 366A, 504 and 506 of the Indian Penal Code (hereinafter referred to as 'the IPC' for the sake of brevity). After due trial, respondent Nandu Jagtap came to be convicted for the offence punishable under Section 363 of the IPC and was sentenced as indicated in the opening paragraph of this Judgment whereas rest of the accused came to be acquitted.

4 Case of the prosecution as reflected from the charge-sheet is to the effect that the respondent No.1 had kidnapped P.W.No.1 – a minor female child from custody of her lawful guardians without their consent for the purpose of seducing her to cause illicit intercourse with him.

5 Perusal of evidence of the victim female child shows that she was more than 15 years of age at the time of the incident in question. She has deposed that on 27/06/2012, when she was proceeding to the tuition class in the morning hours, the respondent came and told her that he has some work with her. She accompanied him and the couple then went to Gangaves by

auto rickshaw. Thereafter, they roamed at Rankala lake of Kolhapur for the day and the victim female child thereafter returned to her house at 9.00 p.m.

6 Cross-examination of this victim female child shows that the case in hand is not that of taking the victim female child but at the most that of enticing. The victim female child joined company of the respondent No.1 at the populous place and then accompanied him to Rankala Lake, where she spent time of one day with him and returned to her home at night.

7 The mode and manner in which crime is committed and circumstances in which the same is committed so also the circumstances of the accused are also relevant for imposing sentence. In the case in hand, the respondent/convicted accused is a young person and the victim was also more than fifteen years of age. Evidence on record suggests that mother of the respondent/convicted accused on earlier occasion had approached the father of the victim female child with proposal of marriage of victim female child with the respondent. It is thus seen that families were acquainted with each other.

8 Considering all these circumstances, the learned trial Court has exercised its discretion for awarding the sentence which is almost appropriate in the case in hand. No case, as such, for

interference is made out. Therefore, the Order :

ORDER

The Appeal is dismissed.

(A.M.BADAR, J.)