

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 16 OF 2019**

The State of Maharashtra

.....Applicant

Vs.

Shridhar Jingonda Pachore

....Respondent.

Mr. V.V. Gangurde, APP for the Applicant.

None for the Respondent.

CORAM : A. S. OKA, AND

A. S. GADKARI, JJ.

DATE : 10th JANUARY, 2019.

P.C.:-

This is an Application for leave to prefer an Appeal under Section 378 (3) of the Code of Criminal Procedure, 1973. The Respondent has been acquitted from the offences punishable under Sections 376 and 451 of the Indian Penal Code by the learned Special Judge and Additional Sessions Judge-2, Sangli, in Sessions Case No. 9 of 2015 by its Judgment and Order dated 20th November, 2017.

2 Heard the learned APP. Perused the record.

3 The evidence of prosecutrix, who was aged about 47 years, creates strong suspicion about the bonafides of lodgment of the Complaint and the occurrence of the alleged incident on 24th May,

2014 at about 1.30 a.m. in a densely populated locality. It appears from the record that Rakhi Pachore (P.W. No. 2), the daughter of prosecutrix aged about 27 years did not resist the Respondent as a prudent person who ought to have been reacted in case of such an alleged sexual assault on the prosecutrix. The behaviour of the prosecutrix and her daughter Rakhi Pachore (P.W. 2) who was sleeping just next to the prosecutrix, creates doubt in the mind of the Court about their natural conduct, being prudent adult persons.

3 It is the defence of the Respondent that, due to the earlier enmity between the families, the prosecutrix has falsely implicated him in the present crime. The evidence on record further indicates that, the husband and son of the Complainant, who had been to their agricultural field for watering the crop, returned at the place of offence within a period of 5 minutes of receipt of information. However, the prosecutrix did not intimate them about the actual happening of the alleged act.

4 The witness Chandan Pachore (P.W. No. 3) in his testimony has also not stated about the fact of intimating the alleged presence of the Respondent on the terrace of the house of the prosecutrix in the wee hours of 24th May, 2014, i.e. immediately after

the husband and son of the prosecutrix came at the place of incident. It appears from the record that the case of the prosecution is shrouded with suspicion.

5 After perusing the entire evidence available on record, we are of the considered opinion that the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

No case for grant of leave is made out.

Application for leave to prefer an Appeal is accordingly rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)