

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 283 OF 2019

Nitin Harishchandra Thombre. ..Appellant.

V/s.

The State of Maharashtra & anr. ..Respondents.

Mr. Aaditya Arvind Gore, advocate for appellant.

Mr. S.R. Agarkar, APP for State.

Mr. Prashant S. Tayade, API, Kolhad Police Station, Raigad.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : MARCH 25, 2019.

P. C. :

1 Heard the learned Counsel for the appellant and learned APP for State. The complainant is present in the court. Learned APP as well as the police officer has taken instructions from the complainant.

2 This is an appeal under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant is in custody since 24/9/2018 in Crime No. 47 of 2018. Investigation is completed and chargesheet is filed.

3 It is the case of the prosecution that on 4/9/2018 Ms. X lodged

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a report at Kolhad Police Station alleging therein that the present appellant had expressed his love for the complainant. She belongs to scheduled caste. It is also contended that he had been persistently expressing his love for her for almost 1 and half year. On 3/9/2018 she alongwith her friend Pranali More had been to watch Dahihandi programme. He had followed her and had touched her inappropriately. At about 7.45 p.m. she was proceeding to her house alone and while she was passing from front of Datta Mandir, the appellant had forced her to sit on his motor cycle and had taken her near the Canal road. He had then ravished her against her wish and had again dropped her near Ambewadi Naka. He had also threatened her of dire consequences in the eventuality she discloses the incident to anybody. When she reached home, she informed her mother about the same and thereafter, lodged a report at the police station. On the basis of the said report, Crime No. 47 of 2018 was registered against the appellant.

4 The date of birth of the complainant is 25th March, 2001. She was about 17 years old at the time of incident. The complainant had cited her friend Pranali More as an eye witness to the incident. Her statement was recorded on 5/9/2018. She had disclosed to the police that on 3/9/2018 she had accompanied the complainant to witness dahihandi programme. The appellant had followed them on his red

colour motor cycle. He caught hold the hand of the complainant. She had not liked the same, so she told the complainant that she would not leave. The appellant had followed them and when they were watching programme, he had touched her to which Pranali More had objected. At that time, the appellant had told her that she does not know the relationship between the complainant and the appellant and that she should ask her friend about the same. Pranali More seemed to be annoyed with the said reaction and had refused to continue her friendship with the complainant and had departed from the place.

5 The accused was arrested on 24/9/2018. On 27/9/2018 while he was in custody, DYSP had recorded his statement. He had disclosed that there were intimate relation between the complainant and the appellant. On the day of incident, she had told him not to wait in public and had dragged him outside. He had admitted that the complainant had accompanied him on that day in the evening and they had consensual sex. He had specifically stated that when he was proceeding from front of Canal road, mother of the complainant had seen them together. The complainant had disclosed to him immediately that since her mother had seen her in his company, she would assault her if he would drop her at home. He therefore, dropped her at Dahihandi point. He had then halted at Canal Road for the whole night. On the very next

day, he left his village and had been to Panvel. Earlier he was working at Thane and therefore, he went to Thane to his friend's place and halted there. In the meanwhile FIR was filed by the complainant.

6 The statement of the mother of the victim was recorded. She had disclosed that on 3/9/2018 her daughter had not reached home till 8.30 p.m. and therefore, she had left for searching her daughter. She had disclosed that on that day she had searched for her daughter at all places. Her daughter had reached home with muddy clothes and then she had disclosed the incident to her mother. The complainant had informed her mother that vegetable vendor Kishori Sawant had seen the accused dragging the complainant on his motor cycle. Therefore, statement of Kishori Sawant was recorded on 5/9/2018. Kishori Sawant had specifically denied to have seen the accused forcing the complainant to sit on the motor cycle.

7 Be that as it may, investigation is completed and charge-sheet is filed. The applicant is a young boy who is 21 years old. The appellant is in custody since 10/9/2018 and further incarceration is unwarranted.

8 In view of the above discussion, the appellant deserves to be enlarged on bail. Hence, following order is passed:

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ORDER

- (i) The appeal is allowed.
- (ii) The appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or more sureties in the like amount.
- (iii) The appellant shall not enter into village Ambegaon and village Ghatav till 30th May, 2019.
- 9 The appeal is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]