

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

**CRIMINAL APPLICATION NO.246 OF 2017**

Smt. Neeta Vilas Thakur .... Applicant

Vs.

Mozes Jorge Dais & Anr. .... Respondents

Mr. Sachin Suryakant Punde for the Applicant.

Mr. George M. Antony for Respondent no.1.

Mr. S.S. Pednekar, APP for the State.

**Coram : Smt. Sadhana S. Jadhav, J.**

**Date : 8<sup>th</sup> April 2019**

P.C.:

1            This is an application seeking leave to appeal challenging the judgment and order dated 31<sup>st</sup> March 2017 passed by the Additional Sessions Judge, Pune thereby acquitting the accused of the offences punishable under Sections 349, 354, 366, 376, 376(d), 504, 506 and 509 of Indian Penal Code.

2            Heard the respective counsel. Perused the notes of evidence. The prosecutrix had admitted in the cross-examination

that her date of birth is 30<sup>th</sup> October 1973. The first information report against respondent no.1 was filed on 9<sup>th</sup> October 2012. The prosecutrix herein had filed a complaint before the Judicial Magistrate First Class, Pune seeking prosecution of respondent no.1 for the above mentioned offences. The learned Magistrate had passed an order under Section 156(3) of Code of Criminal Procedure, pursuant to which, the prosecution was initiated by registering an F.I.R. under Section 154 Code of Criminal Procedure on 6<sup>th</sup> November 2012.

3           It appears that the main contention of the complainant was that she was sexually abused and sexually assaulted by respondent no.1 when she was a minor by taking undue advantage of her age. It is elicited in the cross-examination that she had attained majority on the date when she had filed a complaint.

4           The learned Judge has observed that the allegations against respondent no.1 relate back to the year 1994, when the prosecutrix was working in a STD booth run by one Pathak, opposite

to Prabhat Talkies. The learned Judge has considered the date of birth and the date of incident as narrated by the complainant. In view of the above discussion, it cannot be said that the complainant had not attained an age of understanding in the year 1994.

5           In view of this, no case is made out for granting leave to appeal. The findings recorded by the learned Sessions Judge are in consonance with the facts on record and hence warrant no interference. The application seeking leave to appeal stands dismissed.

**( Smt. Sadhana S. Jadhav, J)**