

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1232 OF 2018
IN
CRIMINAL APPEAL NO. 936 OF 2018

Pramod Barku Tambe @ Pamu Kaka. ..Applicant.

V/s.

The State of Maharashtra & anr. ..Respondents.

Mr. Kanchanpurkar Gautam Tatoba, advocate for applicant.

Ms. Rebecca Gonsalvez, advocate appointed for respondent No. 2.

Ms. Pallavi N. Dabholkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JANUARY 17, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the learned Counsel appointed for the complainant.

2 This is an application under section 389 of the Code of Criminal Procedure, 1973 seeking suspension of substantive sentence imposed upon the applicant by the learned Special Judge under POCSO, 2012 for Gr. Bombay vide Judgment and order dated 22/6/2018 in POCSO Case No. 621 of 2013. The applicant herein is convicted for the offence punishable under section 376 of the Indian Penal Code read with sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer R.I. for 20 years and to pay

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fine of Rs. 50,000/- I.d. to suffer R.I. for 6 months. There is no endorsement to the effect that the fine amount is deposited.

3 The victim happens to be the real niece of the appellant i.e. his brother's daughter. It is the case of the prosecution that five year old victim has been sexually abused and molested by the present appellant in the absence of her parents. She had disclosed to her mother. The medical certificate also corroborates the allegation of the victim child. The learned Counsel for the appellant submits that due to family dispute, appellant has been falsely implicated. The evidence on record would show that this submission is unwarranted and unjustified. In view of this, application seeking suspension of substantive sentence deserves to be rejected. The application is rejected.

4 The learned Counsel Ms. Rebecca Gonsalvez has been appointed by this Court to espouse the cause of the complainant. Her professional fees are quantified as per rule, to be paid by the High Court Legal Services Committee within 3 months.

[SMT. SADHANA S. JADHAV, J.]