

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 86 OF 2018

The State of Maharashtra.	...	Applicant.
V/s.		
Santosh Shriharichandra Chauhan.	...	Respondent.

Mr.J.P.Yagnik, APP for the applicant- State.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 11th January 2019.

P.C. :

This is an application under section 378(3) of the Code of Criminal Procedure, 1973 (for short ("Cr.PC")) for leave to prefer appeal against the judgment and order dated 17th May 2016 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.519/2012 acquitting the respondent from the offences punishable under section 377 and 376 of Indian Penal Code (for short "IPC").

2. At the outset, we note here that the respondent- accused has been convicted under section 354 of IPC and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.2,000/-, though he has been acquitted under section 377 and 376 of IPC.

3. Heard the learned APP for the appellant- State. Perused the record.

4. The prosecutrix was aged about 5 years on the date of alleged incident i.e. 18th March 2012 and, therefore, with a view to protect

her identity and in consonance with provisions of section 228(A) of IPC, the detailed narration of facts mentioned in the FIR, testimony of the prosecutrix and other statements of witnesses is hereby avoided.

5. It is the prosecution case that the respondent- accused on the date and time of incident lured the prosecutrix and took her to an isolated place and committed an offence as contemplated under section 377 and 376 of IPC against her. The prosecutrix in her testimony has admitted that the respondent had committed an act of insertion of finger in her private part and has denied that there was a forcible sexual assault on her. The medical evidence available on record corroborates the version of the prosecutrix to that extent. In view thereof, the trial Court has convicted the respondent for an offence punishable under section 354 of IPC. The amended section 375 of IPC was not in force on the date of the commission of the offence.

6. 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. The trial Court has rightly convicted the respondent for the offence punishable under section 354 of IPC.

7. We find that the judgment and order passed by the trial Court dated 17th May 2016 does not require interference by this Court.

Application for leave is accordingly rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)