

SIN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1876 OF 2018
IN
CRIMINAL APPEAL NO. 1374 OF 2018

Akbar Imam Shaikh.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. Pravin Dabade I/b. Mr. Vikas B. Shivarkar, advocate for applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JANUARY 23, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 389 of the Code of Criminal Procedure, 1908. The applicant has been convicted for an offence punishable under section 376(2)(n), 376 read with section 511, 506 of the Indian Penal Code and Section 5(1) read with section 6, Section 4, 8, 4 read with 18 of the Protection of Children from Sexual Offences Act. The applicant is convicted for offence punishable under section 354 of the Indian Penal Code and sentenced to suffer R.I. for 2 years and to pay fine of Rs. 1,000/- I.d. to suffer S.I. for 1 month. The

Talwalkar

applicant is convicted for offence punishable under section 376 read with section 511 of the Indian Penal Code and sentenced to suffer R.I. for 5 years and to pay fine of Rs. 1,000/- I.d. to suffer S.I. for 1 month. The applicant is also convicted for offence punishable under section 376(2) (n) of the Indian Penal Code and sentenced to suffer R.I. for 12 years and to pay fine of Rs. 1,000/- I.d. to suffer S.I. for 1 month. The applicant No. 1 is convicted for offence punishable under section 506 of the Indian Penal Code and sentenced to suffer R.I. for 6 months and to pay fine of Rs. 1,000/- I.d. to suffer S.I. for 1 month.

3 Perused the notes of evidence. It is clear from the substantive evidence of P.W. 1 who happens to be the mother of the victim that on 29/10/2015 at about 7 p.m. upon hearing the cries of her daughter, she had rushed in the direction of the shouts. Soon she realised that the shouts were from the house of the accused/appellant. She pulled the curtains of the house of the accused and peeped inside and she has actually seen the appellant sexually abusing the victim i.e. her daughter aged 8 years. The mother had beaten him up. Soon the mother had realised that her elder daughter aged about 10 years was also visiting the house of the appellant for playing. They enquired with the elder daughter. At that stage, she had informed her mother that she was also sexually abused and ravished by the appellant. The misfortune

had fallen over the mother who is left with no alternative but to register FIR.

4 Perused the evidence of the victims as well. Although they are of 8 to 10 years old, they stood test of cross-examination and have substantiated their allegations.

5 No case for suspension of substantive sentence is made out. Hence, the application seeking suspension of substantive sentence during the pendency of the appeal stands rejected.

[SMT. SADHANA S. JADHAV, J.]