

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.413/2019

IN

CRIMINAL APPEAL NO...../2019

The State of Mah., thr. the Police Station Officer, Police Station Patur,
Taluka Patur, District Akola

..VS..

Ramdas Somanand Bagade

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri M.J.Khan, Addl.P.P. for the Applicant/State.
Shri K.H.Anandani, Counsel for the Non-applicant.

CORAM : V.M.DESHPANDE, J.

DATED : AUGUST 28, 2019.

1. This is an application filed on behalf of the State seeking leave to file an appeal against judgment and order of acquittal dated 7.1.2019 passed by learned 3rd Additional Sessions Judge, Akola in Sessions Trial No.31/2017 whereby learned Judge of the Trial Court acquitted the non-applicant of offences under Section 376(2)(i) of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard learned counsel Shri M.J.Khan for the applicant/State.

3. Learned Addition Public Prosecutor, invited my attention to evidence of PW1, mother of victim. Date of birth of victim is 24.2.2015.

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4. It appears that during the course of the Trial there was no dispute about age of victim that at the relevant time victim was aged about 2 years.

5. Evidence of PW1 shows that when she entered in house of the non-applicant, she noticed that private part of the non-applicant was in his hand and he is trying to insert in the private part of that toddler. PW7 is doctor Prachi Koranne. Her evidence shows that when she examined victim, she found redness over hymen and it was tendered to touch which clearly fortifies the prosecution case.

6. Learned Judge of the Court below acquitted the non-applicant on the ground that defence is probablized. According to defence, non-applicant has seen PW1 and PW4 in a compromised position on earlier occasion and, therefore, he was falsely implicated in the crime. Such defence is feeble defence.

7. In the society like ours family members will not stake future of a toddler. Learned Judge of the Court below has not considered the said aspect, in my view, in right perspective.

8. In this view of the matter, the criminal application is allowed. Leave to file appeal is granted. Office to register the criminal appeal.

9. The criminal application stands disposed of.

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1. Heard. ADMIT. Record and proceedings be

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called for. Action under Section 390 of the Code Criminal Procedure be taken against the non-applicant.

2. Learned counsel Shri K.H.Anandani, waives service for the non-applicant.

3. The non-applicant be released on bail by learned Judge of the Court below on he executing a P.R.Bond in the sum of Rs.50,000/- with two solvent sureties of the like amount.

JUDGE

!! BRW !!

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