

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APPA] No. 610 of 2018
IN
Criminal Appeal No. of 2019
[State of Mah., Barshi Takli PS, Distt. Akola Vs. Ravindra Narayan Solanke]

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

Court's or Judge's orders

Ms. K. Deshpande, Addl. Public Prosecutor for the appellant-State.

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**CORAM : S. B. SHUKRE AND
S. M. MODAK, JJ.**

DATE : 15th January, 2019

Notice before admission has been duly served upon the respondent-accused. However, he is absent and nobody is present on his behalf.

On going through the impugned judgment and also the deposition of the prosecutrix, we find that there is evidence disclosing the age of the prosecutrix, at the relevant time, to be of about fifteen years, and that means the offence of rape, with which the respondent has been tried in the present case, fell within the sixth contingency described in Section 375 of Indian Penal Code. Now, the question is whether the consent given by the prosecutrix, aged about fifteen years, for a sexual intercourse was a consent given by a girl who had understood the nature and consequences of the act

performed by her because of having attained sufficient maturity or not, would have to be considered appropriately by re-examining the evidence available on record. The impugned judgment, however, does not show that this dimension involved in this case has been properly considered and appreciated by the trial Court. There is also a shift in the legal thinking when it comes to finding a sexual intercourse with a girl aged about fifteen years and this is seen from the judgment of the Hon'ble Apex Court in the case of **Independent Thought Vs. Union of India & another** [(2017) 10 SCC 800].

For the reasons stated above, we find that an arguable case has been made out by the appellant - State for admitting this appeal.

The appeal is **admitted**. Call for Record & Proceedings.

Issue non-bailable warrant against the respondent and he be produced on 11th February, 2019 before the Court of Additional Sessions Judge, Akola, which acquitted him in the matter, and upon his production before that Court, action in terms of Section 390, Criminal Procedure Code, be taken by that Court.

Judge

Judge

