

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

CRIMINAL APPLICATION (APPA) NO. 698 OF 2018
IN
CRIMINAL APPEAL NO..... OF 2018.

(The State of Maharashtra, thr.PSO, PS Warora, District Chandrapur Vs. Tukaram @
Mangesh S/o. Ankush Chaudhary, Tq. Warora, District Chandrapur.)

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

Court's or Judge's orders.

Shri S.D.Sirpurkar, APP for applicant/State.
Shri A.C.Jaltare, Advocate for respondent.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
JULY 25, 2019.**

Heard learned APP and learned counsel
for the respondent.

This application is filed for grant of leave
to file appeal against the judgment passed in Sessions
Trial No. 11/2013 by the learned Additional Sessions
Judge, Warora acquitting respondent of the offence
punishable under Sections 376 and 511 of the Indian
Penal Code.

Learned APP submitted that there is direct
evidence of prosecutrix as well as her mother to
whom she disclosed incident first time after 5 days
and thereafter report came to be lodged by her

mother which is corroborated with the medical evidence and thus contended that though there is some delay in lodging report of 5 days that by itself is not fatal since there is corroborative and direct evidence establishing involvement of the respondent and thus learned APP submits that leave as prayed be granted.

Learned counsel for respondent could not dispute the said submissions, except for contending that there is no medical evidence establishing injury over the private part of the minor girl and has thus contended that in the absence of such medical evidence, the view taken by the trial Court is just and reasonable and needs no interference.

In the background of aforesaid submissions, we have perused the evidence of the victim girl, who had stated that on the day of incident when she was playing with her brother and two cousins, she entered the house of respondent on hearing sound of Television set with other boys. Respondent offered them chocolates and sent other boys out of his house and by offering more chocolates to the victim girl make her lying in his house opposite to Television set on a bed and on removing her clothes attempted to insert his penis into her private part.

Evidence of PW/4 – Victim as aforesaid is

fully corroborated by the version of her mother and grandmother when according to her grandmother, said facts was disclosed to her by victim on 27/10/2012 who, in turn, disclosed the same to the victim's parents and on 28/10/2012, victim's mother – PW/5 – Pushpa lodged report upon which, offence is registered.

In that view of the matter, we find that there is no reason to disbelieve the evidence of the aforesaid witnesses which are materially found corroborated with the medical evidence on record. The findings recorded by the learned Sessions Judge, Warora in the fag end of paragraph 12 of the judgment does not appear to be reasonable considering the background of substantive evidence on record.

In the result, the application is allowed.

Criminal Appeal No...../2018.

Heard.

Admit.

Initiate action under Section 390 of the Code of Criminal Procedure.

On securing presence of the respondent on executing warrant, he be released on same bail bond as in trial Court, as his counsel on record undertakes

to keep the respondent present, if required before this Court.

JUDGE

JUDGE

Sumit