

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

CRIMINAL APPLICATION (APL) NO.850/2019

Harsh s/o Pareshkumar Kariya

..VS..

The State of Mah., thr. PSO PS Ramdaspath, District Akola

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

Court's or Judge's Order

.....
Shri V.R.Deshpande, Counsel for the Applicant.
Shri S.S.Doifode, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : AUGUST 30, 2019.

1. Heard learned counsel Shri V.R.Deshpande for the applicant and learned Additional Public Prosecutor Shri S.S.Doifode for the State.

2. By the present application, the applicant is challenging order dated 6.5.2019 passed by learned Special Judges whereby learned Special Judges of Court below overruled objection taken by defence counsel at the time of admission of Dr.Vandana Ramdas Waso (DW3) on the ground that history narrated to her by victim at the time of her medical examination is hearsay.

3. Learned counsel Shri V.R.Deshpande for the applicant, submitted that learned Special Judges of Court below ought to have noted objection and ought to have decided the same objection at the time of final hearing of Trial and for that he relied on an authoritative

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pronouncement of the Honourable Apex Court in the case of **Bipin Shantilal Panchal vs. State of Gujarat and anr**, reported at **2001 Cri.L.J.1254**.

4. Clinical examination papers of victim, are already admitted in evidence and it is at Exhibit 29. Question is only in respect of narration of history given by victim to Dr.Vandana Waso (DW3). In my view, the present criminal application can be disposed of as under:

ORDER

(i) The criminal application is partly allowed.

(ii) Observations of learned Special Judges of Court below in order dated 6.5.2019 overruling objection is set aside.

(iii) It shall be open for learned Special Judges of Court below to decide admissibility of history given by victim to Dr.Vandana Waso (DW3) at the time of final decision of Sessions Trial.

(iv) With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

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