

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

CRIMINAL APPLICATION (APPA) NO. 153/2019

**IN
CRIMINAL APPEAL NO. _____**

Sau. Vandana W/o Gajanan Dhawale,
Aged about 40 years, Occu. - Cultivator,
R/o. Mahagaon, Tah. Risod,
District – Washim.

.... **APPELLANT**

// VERSUS //

- 1] The State of Maharashtra,
Through Police Station Officer,
P. S. Risod, Tah. Risod, Dist. Washim.
- 2] Pratik Devanand Jamdale,
Aged about 23 years, Occu. Private Service,
- 3] Sonu @ Amol S/o Waman More,
Aged about 22 years, Occ. Labour,
- 4] Satish Ramesh Jamdale,
Aged about 26 years, Occ. Private Service,
- 5] Siddarth Manohar Jamdale,
Aged about 30 years, Occ. Labour,
- 6] Kondu S/o Narayan Jamdale,
Aged about 37 years, Occ. Private Service,
Nos. 2 to 6 all R/o. Mahagaon,
Tq. Risod, District – Washim.

.... **RESPONDENTS**

Shri A. P. Tathod, Advocate for the appellant.
Ms K. S. Joshi, Addl. P. P. for the respondent No.1/State.
Shri R. G. Kavimandan, Advocate for the respondent Nos.2 to 6.

**CORAM : SUNIL B. SHUKRE AND
MADHAV J. JAMDAR, JJ.**

DATED : 22nd January, 2020

ORAL JUDGMENT : (Per : Sunil B. Shukre, J.)**CRIMINAL APPLICATION (APPA) NO. 153/2019**

Heard. For the reasons stated in the application, the application is allowed and the delay is condoned. Appeal be registered.

Learned counsel for the respondent No.1 and learned counsel for the respondent Nos.2 to 6 both for the respective respondents.

CRIMINAL APPEAL NO :

Heard.

2. **Admit.** Heard finally forthwith by consent.

3. According to the learned counsel for the appellant, the evidence has not been appropriately appreciated. However, this has been by opposed the learned APP and also Shri R. G. Kavimandan, learned counsel for the respondent Nos.2 to 6, who submit that the evidence has been properly considered and therefore, this is not a fit case for making any interference in the impugned judgment and order.

4. On going through the impugned judgment and order, we find that learned APP for the respondent Nos.1 and learned counsel for the respondent Nos.2 to 6 are right in their submission.

5. The impugned judgment and order discusses in detail the evidence brought on record by the prosecution and that there is no dispute about the narration of the summary of the evidence in the impugned judgment and order. This evidence, when considered independently, would show that no other conclusion than the one reached by learned Additional Sessions Judge in the impugned judgment and order, is plausible in the present case.

6. The age of the prosecutrix, the victim of the crime could not be established by the prosecution and consequently, the learned Additional Sessions Judge has found that minority of the prosecutrix was not proved in any manner by the prosecution and rightly so. The learned Additional Sessions Judge has also considered several admissions given by the prosecutrix in her evidence and on considering the same in their entirety we also find that the prosecutrix had voluntarily gone alongwith the accused Pratik, with whom she had a love affair. It would also show that none of the other accused was involved in any manner in kidnapping and taking away the prosecutrix from the custody of her parents against their consent. The prosecutrix had not only stayed alongwith the accused Pratik but she had also willfully entered into physical contact with him. A detailed discussion of the evidence and conclusion drawn therefrom could be found in paragraph Nos.24 and 25 of the impugned judgment and order. As

stated earlier, the conclusions so drawn by the learned Additional Sessions Judge are not impossible and this also not a case where some other view is possible. In any case, as per the settled position of law, in an appeal against acquittal, even if another view is possible on the basis of appreciation of the evidence brought on record, view which has been taken by the trial court and which stands in favour of the accused, cannot be upset just because another view was possible.

7. In the circumstances, we find that this is not a fit case for making any interference in the impugned judgment and order. The appeal stands dismissed. No costs.

(MADHAV J. JAMDAR, J.)

(SUNIL B. SHUKRE J.)