

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

CRIMINAL APPLICATION (APPA) NO.173 OF 2020

IN

CRIMINAL APPEAL NO.786 OF 2019

(Anis Shah Kairushah ..vs.. State of Maharashtra, through PSO, PS Borkhedi)

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

Court's or Judge's orders

Shri A.R. Prasad, Counsel for the applicant/appellant,
Shri S.S. Doifode, Addl.P.P. for the respondent.

CORAM : ROHIT B. DEO, J.

DATED : 04-03-2020

The accusation which is held proved is that the 10 years old victim is brutally ravished.

2. The evidence of the child victim that she was subjected to forcible sexual intercourse is more than amply corroborated, although such corroboration is not necessary.

3. The victim deposed that she was forced to lay on the floor, her clothes were removed and then she was subjected to forcible sexual intercourse. The victim, whose clothes were stained with blood, was taken to the hospital by PW 3 and PW 5 (the mother of the victim). The trial Court notes that it is during the cross-examination conducted by the learned Counsel for the accused that the suggestion is given that the victim was frightened and, therefore, taken to the doctor by neighbour and her mother.

4. The accused did not dispute the factum of injuries seen on the private parts of the victim. The hymen was torn and there was laceration on the labia majora. The defence of the accused was that the child victim sustained injuries due to chip of tile when she fell. This defence is falsified by the medical evidence.

5. This is apart from the fact, that the child victim categorically denied having fallen on a chip of tile.

6. Dr. Chavan, who is examined as PW 10, has categorically stated that the injuries suffered by the child victim are not possible by falling on the chip of tile.

7. The prosecution successfully proved, by ample cogent evidence on record, the complicity of the appellant-accused in the crime.

8. Considering the brutality of the crime, that a 10 years old child was ravished and the fact that sound reasons are recorded based on evidence of record for convicting the appellant-accused, I am not inclined to suspend the substantive sentence.

9. The application is dismissed.

JUDGE

adgokar