

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

CRIMINAL APPEAL NO. 366 OF 2020

(NILESH BABAN KAMBLE...VS. STATE OF MAH. THR. PSHO, MOUDA, DIST. NAGPUR & OTH.)

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

Court's or Judge's orders

Shri U.K.Bisen, Advocate for Appellant.
Shri S.J.Kadu, A.P.P. for Respondent No.1.

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
DATED : OCTOBER 23, 2020.

After hearing the learned Advocate for the appellant for sometime, we noticed that in the cause title the respondent No.2-victim is shown as aged about 16 years. The transcription shows that she was shown as major. However, word “**Major**” came to be scored off and “*16 yrs*” came to be written by hand.

On query, the learned Advocate for the appellant states that at the time of filing the Memorandum of Appeal in physical form on 15th October 2020, which is supported by the endorsement of Section Officer on page No.1 of the Memorandum of Appeal also, the Section Officer insisted for giving details of age of the respondent No.2 and at that time the word “Major” came to be scored off and the words “16 yrs” came to be written by hand.

The appeal was listed before this Court on 25th September 2020, on which date this Court directed issuance of notice to the respondent No.2. At that time, the fact that the respondent No.2 is minor was not before the Court as the description in the cause title of the Memorandum of Appeal shows that the respondent No.2 was major.

The learned Advocate for the appellant pointed out that the fact that the respondent No.2 was minor was brought to the notice of this Court, which is clear from paragraph No.4 of the order dated 25th September 2020. He states that the mistake has occasioned due to inadvertence and seeks leave to amend the cause title to show correct description of the respondent No.2.

We are not inclined to accept the explanation of inadvertence given by the learned Advocate for the appellant. In our view, the appeal as filed, impleading minor as respondent No.2, cannot be entertained.

Hence, the appeal is **dismissed** with liberty to the appellant to file fresh, if so advised.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J.)

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