

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

CRIMINAL APPLICATION (APPA) NO. 257/2020
IN
CRIMINAL APPEAL NO. /20

State of Maharashtra

..VS..

Sagar P. Tayade

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

Court's or Judge's orders

Ms. Mayuri Deshmukh, APP for the applicant/appellant

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
DATED : 15/01/2021

1] The appellant – State has filed the appeal under Section 378(3) of the Code of Criminal Procedure to challenge the judgment passed by the Sessions Court by which the respondent is acquitted of the charge of commission of the offences punishable under Sections 376, 493 and 496 of the Indian Penal Code.

2] According to the learned APP, the limitation to file appeal expired on 18/04/2020, however, in view of the directions given by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 03/2020, it has to be treated that the appeal is filed within limitation.

3] According to the prosecution, the victim lodged the report about commission of the offences by the accused and after the investigation, substance was found in the accusations levelled by the victim against the accused, and

therefore charge-sheet was filed before the Sessions Court. After the trial, learned Sessions Judge has recorded that at the time of commission of the alleged offences, the victim was major and there is no evidence on record to show that the accused had forcibly committed sexual intercourse with the victim. After examining the evidence, learned Sessions Judge has summed up his conclusions in para no. 28 of the impugned order as follows:-

“28] If we taken into consideration, the evidence of prosecution into consideration as a whole, it clears that as complainant is a educated woman, she must know all the consequences of the act done by accused as per her report. Inspite of that, there is nothing came on record that she have tried to escape from the clutches of the accused in spite of she had opportunity to do so. The evidence of complainant also shows that she have not opposed so called marriage performed with her by the accused nor she have complained anywhere. Therefore, it is clear that prosecution have totally failed to prove the case against the accused for the offence punishable under Sections-376, 493 and 496 of Indian Penal Code beyond all reasonable doubt. Therefore, I answer all these points in ‘Negative’ and hold it accordingly.”

4] The appellant has not been able to point out any glaring illegality or perversity in the conclusions of the learned Sessions Judge. It cannot be said that the learned Sessions Judge has not considered or has misread the relevant

evidence. Hence, we see no reason to interfere with the impugned judgment.

5] The prayer of the appellant for grant of leave to file appeal is **rejected**. Consequently, the criminal appeal is **rejected**.

JUDGE

JUDGE