

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.1757 OF 2019**

Varlakshmi Vishnu Sakinal

... Appellant

V/s.

The State Of Maharashtra And Anr.

... Respondents

Mr. Sachin H. Deokar for Appellant.

Mr. Ajay Patil APP for Respondent No.1-State.

Mr. Ritesh Thobde for Respondent No.2.

**CORAM : A.S. GADKARI AND
MILIND N. JADHAV, JJ.**

DATE : 19th SEPTEMBER, 2022.

PC. :

1. Appellant/victim has questioned the correctness of Judgment and Order dated 9th August, 2019 passed by learned Additional Sessions Judge, Solapur in Sessions Case No. 229 of 2017 acquitting Respondent No.2 from the offence punishable under Sections 376 and 506 of the Indian Penal Code (for short “the IPC”).

2. Heard Mr. Deokar, learned Advocate for Appellant, Mr. Patil, learned APP for State and Mr. Thobde, learned Advocate for Respondent No.2. Perused record produced before us.

3. Appellant/victim is a Police Officer by profession. In her examination-in-chief she has admitted that, she got married with Mr. Amit

Pasnur in the year 2004 and gave birth to a son on 4th February, 2005. That, she joined police service in the year 2015 and got posting in the year 2016. That, in the year 2009 she left matrimonial house of her husband namely Mr. Amit Pasnur and started residing with her parents. In the year 2010, she took divorce as per the customs in her community. She has admitted that, Respondent No.2 was her school friend and she kept contact with him from the year 2014 to 2016.

It is alleged that, on 30th October, 2016 Respondent No.2 committed an act as contemplated under Section 376 of the IPC against her will and wish. Respondent No.2 also threatened her of making the intimate photographs viral on social media. Therefore, she kept mum and did not disclose the said fact to anybody. That, again on 4th February, 2017 Respondent No.2 committed forcible sexual intercourse with her at her residence.

In the cross-examination she has admitted the fact that, she being a Police Officer was well aware about intricacies of investigation of crime under Section 376 of the IPC. That, though her cloths were torn in the incident dated 30th October, 2016, she did not give the same to the police, despite knowing the fact of its importance for the investigation of the present crime. She has further admitted that, she wanted to marry to Respondent No.2. Suggestions were given to Appellant in her cross-examination that, as

the Respondent No.2 was not ready to marry with her she started harassing him by misusing power and position of being a Police Officer. She has admitted that, due the same Respondent No.2 had given a complaint to Police Inspector, Crime Branch, Solapur.

The Medical Officer (PW-4) in his cross-examination has admitted that, on the basis of C.A. Report it can be concluded that, no sexual assault took place against the Appellant.

4. After taking into consideration aforestated admissions given by Appellant and the Medical Officer (PW-4), according to us no offence as contemplated under Section 376 of the IPC is made out.

5. Perusal of impugned Judgment and Order indicates that, Trial Court has taken into consideration all the evidence and circumstances while acquitting the Respondent No.2 from the charges framed against him. The view adopted and expressed by the Trial Court is a probable view in the facts and circumstances of the present case.

In view of the evidence on record of the present case, we find there is no error either in law or on facts committed by the Trial Court while passing impugned Judgment and Order.

Appeal being *dehors* of merits is accordingly dismissed.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]