

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.395 OF 2019

Ramesh @ Pinya s/o. Mhasu Jadhav,
Age : 33 years, Occ. Agri.,
r/o. Mahegaon Deshmukh,
Near Marathi Z.P. School,
Tq. Kopargaon, Dist. Ahmednagar

..Appellant

Vs.

1. The State of Maharashtra,
Through Police Station,
Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar

2. Miss. XYZ

..Respondents

AND

CRIMINAL APPEAL NO.404 OF 2021

Kiran @ Gotya s/o. Bhagwat Kadam,
Age : 33 years, Occ. Nil,
r/o. Chine Vasti, Kumbhari,
Tq. Kopargaon, Dist. Ahmednagar

..Appellant

Vs.

1. The State of Maharashtra,
Through Police Station,
Kopargaon, Tq. Kopargaon,
Dist. Ahmednagar

2. Miss. XYZ

..Respondents

Mr.N.K.Kakade, Advocate for appellant in Cri. Appeal No.395 of 2019

Mr.A.R.Borulkar, Advocate for appellant in Cri. Appeal No.404 of 2021

Mr.A.S.Shinde, APP for respondent no.1

Smt.Kalpana S. Kulkarni (Sonpawale), Advocate for respondent no.2
in both matters

CORAM : R.G. AVACHAT, J.

DATE : APRIL 17, 2023

Operative Order :-

For the reasons recorded separately, following order is
passed:-

- (i) Criminal Appeal No.395 of 2019 is partly allowed.
- (ii) Criminal Appeal No.404 of 2021 is allowed.
- (iii) The order of conviction and consequential sentence of both the appellants for the offence punishable under Section 376-D of Indian Penal Code is hereby set aside. Both of them stand acquitted of the said offence.
- (iv) Instead, appellant in Criminal Appeal No.395 of 2019 - Ramesh @ Pinya s/o. Mhasu Jadhav (A1) is convicted for the offence punishable under Section 376(2)(I) and therefore, sentenced to

suffer rigorous imprisonment for ten (10) years with a fine of Rs.10,000/- (Rupees Ten Thousand).

(v) Appellant in Criminal Appeal No.404 of 2021 – Kiran @ Gotya Bhagwat Kadam (A2) is in jail since the date of his arrest, i.e., from June, 2017. He be set at liberty immediately, if not required in any other case.

(vi) The amount of fine if deposited by the appellant in Criminal Appeal No.395 of 2019 - Ramesh @ Pinya s/o. Mhasu Jadhav (A1) against the conviction for the offence under Section 376-D of Indian Penal Code, shall be appropriated towards the fine to be paid by him for the offence under Section 376(2)(I) of I.P.C. In default of payment of fine amount, he shall undergo rigorous imprisonment for two (2) months.

(vii) Appellant – Ramesh @ Pinya s/o. Mhasu Jadhav too is in jail since 27.06.2017. He be given due set off.

(viii) Fine amount, if any, deposited by the appellant in Criminal Appeal No.404 of 2021 – Kiran @ Gotya, be refunded to him.

(ix) Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.8,000/- (Rupees Eight Thousand)

[R.G. AVACHAT, J.]

KBP