

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

CRIMINAL APPLICATION (APPA) NO.1137 OF 2022

IN

CRIMINAL APPEAL (ST) NO.8539 OF 2022

{The State of Maharashtra ..V/s.. Rakesh Fulchand Raut and Anr.}

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

Court's or Judge's order

Shri M. J. Khan, APP for the Applicant/Appellant/State.
Shri R. D. Hajare, Advocate (Appointed) for the Respondents.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.

DATE : 3rd JANUARY, 2023.

. Heard learned Counsel appearing for the parties.

2. This is an application under Section 378(1)(b) of the Code of Criminal Procedure, 1973, seeking leave to file an appeal challenging the order of acquittal passed by the Trial Court in Special (POCSO) Case No.07 of 2017, vide judgment and order dated 07.12.2020. Both the accused were charged for the offence punishable under Sections 450 and 376 read with Section 34 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. After recording the evidence, the Trial Court has acquitted the accused by holding that the prosecution was not able to establish leveled charges with requisite standard of proof.

3. Shri Khan, learned Assistant Public Prosecutor for Applicant/State has assailed the impugned order by contending that the Trial Court has not considered the direct evidence of Victim. Learned APP took us through the evidence of Victim,

wherein she has stated the alleged act of both the accused. The evidence of PW-6 Dr. Archana Meshram discloses that on the date of occurrence, itself Victim was medically examined, on which certain injuries on her body were found. Having regard to above fact, we deem it appropriate that the matter requires re-look.

4. In view of above, leave to file of appeal is granted. Criminal application is disposed of.

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5. Heard. **Admit.**

6. Issue notice to the Respondents. Shri Hajare, learned Counsel waives notice for the Respondents/Accused.

7. Call Record and Proceedings.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

TAMBE