



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 APPLN. FOR LEAVE TO APPEAL BY STATE NO. 31 OF 2024

The State Of Maharashtra

VERSUS

Nitin Bapuji Amrute

...

Mr. S. J. Salgare – Asst. Public Prosecutor for Applicant/State

Mr. M. M. Parghane - Advocate for Respondent/State

...

CORAM : R. G. AVACHAT

AND

NEERAJ P. DHOTE, JJ.

DATED : 24TH SEPTEMBER, 2024

PER COURT : -

1. This application is filed by the State seeking leave to file appeal against the Judgment and Order dated 08.02.2019 passed by learned Special Judge, Nanded, in Spl (POCSO) Case No. 1/2018, acquitting the respondent of the offences punishable under Sections 376(1)(N) of Indian Penal Code [IPC], 3(1)(w) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act [SC ST Act] as well as Section 6 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act].

2. We have heard the learned Assistant Public Prosecutor for the State and perused the evidence on record.

3. It was the case of the prosecution that the respondent had sexual intercourse with the victim, who was minor at the relevant time,

on the false promise of marriage. Despite promise, respondent did not marry the victim. One of the charge was for the offence punishable under the POCSO Act for which the victim has to be a child as defined under Section 2(d) of the POCSO Act. In the case in hand, there is no evidence except the evidence of victim regarding her date of birth which would be hearsay. No birth certificate or school record proving the date of birth of the victim is brought on record. Though prosecution examined the victim's parents, they nowhere deposed about the date of birth of the victim. The evidence of victim shows that she was in consensual relations with the respondent. The report is lodged after a period of seven years.

4. In view of the above and in our considered view, no case is made out for issuance of notice and grant of leave to file appeal.

5. Application is dismissed.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde