



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 23 OF 2019

The State of Maharashtra
Through Dhule Taluka Police Station,
Dhule, Dist. Dhule

... Applicant
(Prosecution)

Versus

Sagar Rohidas Gokhale,
Age : 20 years, Occu. : Education,
R/o. Aravi, Tal. & Dist. Dhule

... Respondent
(Orig. Accused)

...
Mr. N. D. Batule, APP for Applicant – State
Mr. H. V. Tungar, Advocate for Respondent
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 31st JANUARY 2024

PRONOUNCED ON : 6th FEBRUARY 2024

ORDER :

1. Vide instant application State, is hereby seeking leave to question the Judgment and order of acquittal passed by learned Additional Sessions Judge, Dhule in Sessions Case No. 45 of 2016, thereby acquitting respondent from offence punishable under section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and sections 354 and 506 of Indian Penal Code (IPC).

2. Learned APP would submit that, prosecution was launched on the basis of FIR lodged by grandmother (PW1). It is

pointed out that, victim, who was 11 years of age, was found crying and on being questioned, she told that accused respondent followed her, placed her hand on her shoulder and even moved his hand on her chest. Therefore, complaint was lodged. It is submitted that victim is also examined as PW2 and she has also narrated the act of accused. That, prosecution had examined four witnesses. Charges were proved by leading cogent evidence, but learned trial Judge did not accept the case of prosecution and rather acquitted the accused from all charges. There is improper appreciation of evidence. Learned APP submitted that, there is a good case on merits in appeal and hence he prays for leave.

3. It seems that, FIR was registered at Dhule Taluka police station on 22.07.2016. Grandmother, who has set law into motion and who has examined as PW1, claims that, victim while crying narrated that when she requested accused to drop her to her place, he refused, but he followed her, kept his hand on her shoulder and also moved it over her chest. Victim has also examined. *Prima facie* the incident seems to have taken place while crossing the river. Learned trial Judge seems to have dealt with the intensions of accused to commit the offence. Occurrence of 7.00 p.m. of 22.07.2016 is reported at 2:00 a.m. It is further emerging that victim has herself requested accused to accompany

her and drop her. There is apparently no material regarding commission of offence under section 506 of IPC. Therefore, taking the nature of accusations, the circumstances in which alleged incident has taken place, in the considered opinion of this court, no fruitful purpose would be served by granting leave. No patent perversity or illegality in the judgment of the trial court is brought to the notice of this court so as to grant leave. Hence, I proceed to pass following order : -

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)