



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 527 OF 2025
IN
CRIMINAL APPEAL STAMP NO.4974 OF 2025

State of Maharashtra, Through Police Station Officer, Police Station
Barshitakli, District Akola

Vs.

Sudhakar Ramdas Dhage and another

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

Court's or Judge's orders

Mr. M. J. Khan, APP for applicant/State.

None for the respondent No.1.

Mr. Mandar Deshpande, Advocate h/f Mr. S. V. Sirpurkar, Advocate
for respondent No.2.

CORAM : URMILA JOSHI-PHALKE AND
NIVEDITA P. MEHTA, JJ.
DATED : 27/04/2026

1. By this application, the State is seeking leave to prefer an appeal against acquittal.

2. Heard learned APP for the State, who submitted that the respondent No.2 was chargesheeted of the offence punishable under Sections 354, 354A, 506, 376, 376C, 376(2) (b), 376(3), 376AB and 342 of the Indian Penal Code and Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012, under Section 67A of the Information Technology Act, 2000 and under Sections 3(1)(r), 3(1)(w)(ii), 3(2)(v) and 3(2)(va), 3(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submitted that the prosecution was launched on the basis of a report lodged by the mother of one of the victims on

05.04.2024 contending that the present respondent No.2 is the teacher who has subjected the various victim girls for the sexual assault, which was penetrative and non-penetrative in nature. During investigation, the Investigating Officer has recorded the relevant statements of the witnesses and victim girls were referred for medical examination. After completion of the investigation, charge sheet submitted against him. During the trial, the learned trial Court has examined 13 witnesses, out of them, PW 1 and PW 2 victim girl have not supported the prosecution's case. However, PW 3, PW 4 and PW 5 are other victim girls, they have supported and specifically narrated about the act of the present respondent No.2.

3. During the cross-examination of these witnesses, nothing is elicited to falsify the version of the prosecution witnesses. He also pointed out from the impugned judgment that the findings recorded by the learned trial Court are contrary to the evidence of the victim. He submitted that the trial Judge has to consider that initial burden is on the prosecution to prove the foundational fact and thereafter, burden will shift on the accused to rebut the presumption. However, the observation of the learned trial Court in Para Nos.50 and 51 is contrary to the law. For all the above grounds, he seeks leave to prefer an appeal.

4. Learned counsel for the respondent No.2 strongly opposed for the same and submitted that it is specifically observed by the learned trial Judge that there is no satisfactory reason against the present respondent No.2 and therefore, no case is made out to grant leave against the

present respondent No.2. In view of that, the application deserves to be rejected.

5. None present for the respondent No.1.

6. On hearing both sides and on perusal of the entire evidence, at this stage, the learned APP has pointed out from the evidence of PW Nos.3, 4 and 5 regarding the role of the present respondent No.2. On pointing out, the Para Nos.50, 51 and 52 of the impugned judgment it *prima facie* reveals that the contradictory observation is made by the learned trial Judge. At this stage, the learned APP has pointed out that he has many arguable points, and therefore, the leave requires to be granted.

7. Considering the evidence which is recorded during the trial before the trial Court and the observations made by the learned trial Court, the present respondent No.2, who is a teacher involved in the offence like sexual assault. Moreover, the observations which *prima facie* appears to be contrary to the evidence, and therefore, the prayer of the prosecution for grant of leave deserves to be allowed. Hence, I proceed to pass following order:

ORDER

- (i) The application is **allowed**.
- (ii) Leave is granted to the prosecution to prefer an appeal.
- (iii) Appeal be registered.

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- 1. **Admit.**
- 2. Call for record and proceedings.

3. On registration of the appeal, learned counsel Mr. Mandar Deshpande, waives notice for the respondent No.2.

4. Learned APP shall supply the copy of the appeal memo to the learned counsel for the respondent No.2.

5. Appeal be listed before this Court after preparation of the paper book.

(NIVEDITA P. MEHTA, J)

(URMILA JOSHI-PHALKE, J)