

28.03.2014

Shri Vivek Khedkar, Public Prosecutor, for the petitioner/State.

Heard.

Being dissatisfied, this petition has been preferred by the State under Section 378(3) of the Code of Criminal Procedure for grant of leave to file appeal against the judgment of acquittal dated 17.08.2013 passed by the learned trial court in Special Sessions Trial No.35/2013.

Having considered the arguments put forth by the learned Public Prosecutor and perused the record of the trial court, especially the evidence collected with regard to ascertainment of the age of the prosecutrix, it appears that she was minor at the time of commission of offence in the light of the mark-sheet of class 5th which discloses her date of birth as 04.06.1999. The evidence to this respect is also supported by Narayandas Koli (PW-2) who was the Principal of Govt. Girls Middle School, Kurwai who stated that according to the Entrance Register Ex.P-2 the date of birth of the prosecutrix is 04th June, 1999. Father of the prosecutrix, namely, Suresh (PW-8) also stated that the prosecutrix had born in the year 1999. Hence, the age of the prosecutrix was proved below 16 years.

So, the acquittal recorded by the trial court on the

grounds mentioned in the judgment requires reconsideration in the light of the material evidence. Accordingly, Mcrc stands allowed and the leave is granted to the State.

Office is directed to register the regular Criminal Appeal and list before the appropriate Bench for hearing on admission.

A copy of this order be kept in the record of the Criminal Appeal.

(S.K. Gangele)
Judge

(G.D. Saxena)
Judge