

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 187 of 2018**

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RATHOD MUKESHBHAI SUKKARBHAI @ SUKHABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR.SANAT B PANDYA(6976) for the PETITIONER(s) No. 1

MR HARDIK SONI, PUBLIC PROSECUTOR(2) for the RESPONDENT(s) No.
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CORAM:

HONOURABLE MS JUSTICE SONIA GOKANI**Date : 28/03/2018****ORAL ORDER**

1. This is an appeal against the judgment and order passed by the learned 5th Addl. District & Sessions Judge, Surat (for short, 'trial Court'), in Special (POCSO) Case No. 89 of 2014, whereby, the trial Court convicted the appellant-convict for the offence punishable under Section 376(2)(F) of the Indian Penal Code so also under Section 6 of the Protection of Children from Sexual Offences Act, 2012, and sentenced him to undergo imprisonment for 10 years under each offence and also ordered him to pay fine of Rs.25,000/- and in default to undergo further simple imprisonment for one year.

2. The sentences are ordered to run concurrently and the appellant is in jail at Surat from the date he had been arrested.

3. Learned Advocate, Mr. Sanat Pandya, appearing for the appellant on the last occasion had disclosed that the appellant is not desirous of prosecuting this appeal. On noticing that the prosecutrix was aged only 7 years at the time of incident, in respect of her compensation also this Court had deemed it fit to direct the authority concerned. Accordingly, an order came to be passed on 08.03.2018, which read thus:

1.This Court does not find the report of the Chairman, District Legal Service Authority of District Surat possibly because the order had been passed on 28.02.2018. The process, as far as possible be attempted to be completed within a period of 12 weeks. In the meantime, learned Chairperson, District Legal Service Authority may ascertain by Deputy and Judicial Officer or on calling the concerned convict before itself whether he is not desirous to proceed with the present Appeal being Criminal Appeal No.187 of 2018.

2. Mr.Sanat Pandya, learned advocate appearing for the appellant has urged that through his mother, the applicant has categorically conveyed that he does not want this appeal to be pursued. This has been conveyed to this Court at the stage of admission.

3. Considering period of punishment of 10 years in the serious offences under Sections 376 (2)(F), 504, 506(2) of the Indian Penal Code and

Section 6 of the Protection of Children from Sexual Offences Act, 2012, this aspect needs to be ascertained by the Judicial Officer and if found necessary, his communication can be reduced taken in writing also.

Let such a report be submitted to the Court on or before March 28, 2018.

4. The order dated 08.03.2018 was passed to verify the version given by the learned Advocate, Mr. Pandya, on instructions, from the mother of the convict.

5. The report of the Chairman, District Legal Services Authority & the Principal District Judge, Surat, vide his communication dated 27.03.2018 has been received. She had chosen to call the appellant-convict, Mukesh Sukkarbhai @ Sukhabhai, before her and recorded his statement. With a specific report that he is not desirous to proceed with this appeal, the learned Advocate does not press the same. The statement of the convict-appellant dated 26.03.2018, recorded in the presence of the learned Principal District Judge, Surat, is forming the part of the report.

6. On being satisfied that the report tendered by the learned Principal District Judge, Surat, the request of the learned Advocate, Mr.

Pandya, to permit withdrawal of this appeal is acceded to.

7. Resultantly, this appeal stands disposed of, as **WITHDRAWN**. Office to send back R&P, if any received, to the trial Court concerned, **FORTHWITH**.

(SONIA GOKANI, J)

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