

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 827 of 2022**

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TOLIYA @ TARSING RATNABHAI
Versus
STATE OF GUJARAT

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Appearance:

MR PRAVIN GONDALIYA(1974) for the Appellant(s) No. 1

MS. M.H.BHATT, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE B.N. KARIA

Date : 20/04/2022**ORAL ORDER**

By preferring this appeal, appellant has requested to quash and set aside the judgement and order dated 10.12.2021 passed in Special (POCSO) Case No. 21 of 2017 by the learned 2nd Additional Sessions Judge, Gondal and also requested to acquit the appellant from the charges levelled against him.

Heard learned advocate for the appellant.

Learned advocate for the appellant submits that the prosecution has failed to prove the case beyond all reasonable doubts and therefore, the same is liable to be quashed. That, learned trial Judge ought to have appreciated that the evidence led by the prosecution which is shaky and not corroborated by any other independent witness. That, the prosecution failed to prove the date

of birth of the prosecutrix and there are doubts about the birth date. The prosecution failed to prove that the prosecutrix was below 18 at the time of incident. That, the FIR was filed after about 8 month's delay and there was no satisfactory explanation for such long delay by the prosecution which makes the entire case of prosecution unbelievable and untrustworthy.

Issue requires consideration.

Admit. Learned APP waives service of notice of admission for and on behalf of the respondent-State.

BEENA SHAH

(B.N. KARIA, J)