

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

913. CRI.APPLN/944/2014

THE STATE OF MAHARASHTRA
V/S
DADARAO GANPATRAO PHAD AND OTHERS

Mrs. R.K. Ladda, APP for State.

Mrs. Supriya Pansambal h/f. Mr. V.D. Gunale, Advocate for
respondent Nos. 1 to 3.

CORAM : T.V. NALAWADE, J.

DATED : 24th July, 2015.

ORDER :

1. The application is filed for granting leave to file appeal against judgment and order of R.C.C. No. 23/2006 which was pending in the Court of Judicial Magistrate, First Class, Ahmednagar. The J.M.F.C. has acquitted the respondents of the offences punishable under sections 325, 324, 323, 504 and 506 and 34 of Indian Penal Code. Heard the learned APP. Some hearing was given to the learned counsel for respondents/accused also.

2. It appears that separate case was filed against juvenile accused Mahesh in respect of the same incident. The Trial Court had convicted the juvenile, but he came to be acquitted in Sessions Court. That decision is not challenged by

the State.

3. Respondent Nos. 2 and 3 are tenants of respondent No. 1 - Dadarao and complainant is their neighbour. Incident started when accused No. 3 - Vijayabai was seen throwing garbage in the open space of the property of the complainant. Allegations are made that after starting of quarrel, Dadarao and Ramchandra went there and Dadarao was having stick. Allegations are made that Dadarao and Ramchandra gave beating and during the incident, Mahesh, juvenile accused, son of respondent no. 2 gave fist blow on the face of the complainant. It is the case of complainant that he lost one tooth of upper side due to the blow given on his face.

4. In the trial Court, the evidence of the complainant and doctor came to be recorded. The Trial Court has considered the medical evidence and the fact that when the evidence was recorded, all the 32 teeth of complainant were intact. The complainant tried to say that he has lost one overlapping tooth of upper side and he was having that tooth with him. No such tooth was taken over by the investigating agency. In initial medical record, this circumstance was not noted, but the doctor has given evidence that complainant has lost one tooth. In any

case, such injury was allegedly caused by Mahesh and the said decision is not challenged by the State.

5. Out of a petty incident, quarrel took place and some other minor, simple injuries were sustained by the complainant in the incident. In view of the nature of dispute and nature of evidence, this Court holds that it is not desirable to grant leave the State to file appeal. Nothing can be achieved if opportunity is given to the State to file appeal

6. In the result, the application is rejected. Leave is refused.

[T.V. NALAWADE, J.]

ssc/