

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1879 OF 2014

THE STATE OF MAHARASHTRA
VERSUS
BABAN PARASRAM CHAVHAN AND OTHERS

...
APP for Applicant : Mrs. S. D. Chincholkar
Advocate for Respondents : Mr. V. B. Jogdand

CORAM : S.S. SHINDE & A.M. BADAR, JJ.
DATE : 22nd JANUARY, 2015.

PER COURT:

1] Heard learned APP for the appellant. There are 5 eye witnesses and also, there is corroboration to their version. As such, this is a fit case wherein leave to file appeal deserves to be granted.

2] Per contra, learned counsel for the respondent submits that the prosecution case suffers from inherent contradictions, omissions and improvements. According to learned counsel for the respondents there are two incidents in one transaction. It is submitted that a possible view has been taken by the trial court. Therefore, leave to file appeal may be refused.

3] Upon hearing learned counsel for the parties and on perusal of the findings recorded by the trial court, prima facie, it appears that the evidence of the 5 eye witnesses has not been properly considered coupled with medical evidence. Hence, a case is established for allowing the application.

4] Application is allowed in terms of prayer clauses (A)(B)(C) and (F) and the same is disposed of.

5] Admit. On admission, Mr. Jogdand, waives notice for respondent. Action under Section 390 of Cr.P.C. to follow before the Sessions Court, Jalna.

[A.M. BADAR]
JUDGE

[S.S. SHINDE]
JUDGE.

grt/-