

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 3767 OF 2014.

THE STATE OF MAHARASHTRA.
VERSUS
SAHADEO PRABHU HARALE & ORS.

Appearance =>

Mrs. R.K. Ladda, Assistant Public Prosecutor for the State of Maharashtra.

Mr. V.D. Sapkal, Advocate for the Respondents.

CORAM : M.T. Joshi, J.

DATE : 16th September, 2015.

Per Court :-

Heard.

[2] The State wants to prefer Appeal against the Judgment and Order dated 1st March, 2014 passed by the learned Chief Judicial Magistrate, Osmanabad in Regular Criminal Case No.24 Of 2002, whereby the accused were acquitted for the offence punishable under Section 465 read with 34 of the Indian Penal Code. In the circumstances, application for leave to prefer the Appeal is filed.

[3] Prosecution case, in short, would reveal that, present Respondents have submitted consent deed purported to have been executed by the adjoining land owners thereby, giving permission to lay pipeline from their field. The said consent letter was produced before the Executive Engineer, Medium Project, Osmanabad. Since it was alleged that, signatures were forged, Crime was registered.

[4] The evidence before the learned Magistrate was regarding specimen handwriting and signatures of Respondent Nos. 1 and 2. These specimen handwriting and signatures were sent to the hand writing expert alongwith the disputed documents and opinion of handwriting expert was obtained. The Respondents have taken exercise of proving that even the panchnamas under which the purported sample of the handwriting and the signatures of Respondent Nos. 1 and 2 were obtained, were forged. According to them, it does not bears signatures of the purported panch witnesses. Handwriting expert examined them had also confirmed the said fact.

[5] Besides this, the prosecution did not examine any officer to show before whom the said disputed consent deed was placed by the Respondents or any of them. Further even the Investigating Officer did not enter the witness-box. It is thus not proved that disputed consent deed was produced by any of the Respondents before any authority.

[6] In view of the matter, the learned Chief Judicial Magistrate found that prosecution case is not proved beyond reasonable doubt.

[7] Upon hearing both the sides and upon going through the record, in my view, reasonable and probable view has been taken by the learned Chief Judicial Magistrate. In the circumstances, grant of leave to prefer Appeal against the said order of acquittal would be an exercise in futility. Leave to prefer Appeal is, therefore, refused. Criminal Application is disposed of.

(M.T. JOSHI, J.)