

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4641 OF 2014

The State of Maharashtra .. Applicant

Vs.

Hajuddin Ansuddin Shaikh and ors. .. Respondents

Mrs. S.D. Shelke, A.P.P. for the applicant/State

CORAM : M.T. JOSHI, J.

DATE : 24/03/2015

ORAL ORDER :

1. Heard learned A.P.P.

2. The material on record would show that cross-complaints were filed regarding the incident, in which one Hajuddin has died. Therefore, the complainant and witness in the present case are the accused in the Sessions case. In the complaint filed by P.W. 1 Tajoddin – the injured, the present respondents were facing trial for the offences punishable under section 324, 504, 506 r/w. 34 of the Indian Penal Code. All of them were acquitted by the learned Additional Sessions Judge, Osmanabad. Hence, the present application seeking leave to file appeal is preferred.

3. The deposition of P.W. 1 – Tajoddin i.e. the very injured was to the effect that deceased Hajuddin has assaulted him and as regards the rest of the accused i.e. the present respondents, the only statement was that they were only present at the spot of the incident. His wife P.W. 3 – Faimun Shaikh, however, deposed that the present accused assaulted Tajoddin i.e. P.W.1 while the rest of the accused i.e. present respondents threatened to kill him. In view of this material contradiction between the statement of the husband and wife, and relying more on the statement of the injured i.e. the husband, the learned Additional Sessions Judge has extended benefit of doubt in the case.

4. Reasonable and probable view has been taken by the learned Additional Sessions Judge taking into consideration the above material on record. In the circumstances, the following order:-

5. Leave to file appeal is hereby refused. Criminal Application no. 4641 of 2014 accordingly stands disposed of.

[M.T. JOSHI]
JUDGE

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