

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.561 OF 2012

Mohd. Aasif Mohd. Abbas Ansari,
Age-25 years, Occu:Nil,
R/o-Dhule, Tq. & Dist-Dhule
(Milat Nagar, Wadjai Road, Dhule)

...APPELLANT

VERSUS

- 1) The State of Maharashtra,
Through the PSO Azad Nagar
Police Station, Dhule,
Dist-Dhule,
- 2) Sagir Ahemad Kalim Ansari,
Age-41 years, Occu:Labourer,
R/o-Milat Nagar, Dhule,
Dist-Dhule,
- 3) Tipu @ Sultan Sagir Ansari,
Age-19 years, Occu:Education,
R/o-Milat Nagar, Dhule,
Dist-Dhule,
- 4) Kalim Ahmad Moyoddin Ansari,
Age-62 years, Occu:Labourer,
R/o-Milat Nagar, Dhule,
Dist-Dhule,
- 5) Isaq Ahemad Kalim Ansari
(Deceased),

- 6) Mukhtar Ahemad Kalim Ansari,
Age-39 years, Occu:Labourer,
R/o- Maulavi Ganj, Dhule, Dist-Dhule,
- 7) Ekalakh Ahemad Kalim Ansari,
Age-27 years, Occu:Labourer,
R/o-Maulavi Ganj, Dhule,
Dist-Dhule,
- 8) Ansari Habib Kalim Ahemad,
Age-29 years, Occu:Business,
R/o-Maulavi Ganj, Dhule,
Dist-Dhule,
- 9) Iliyas Ansari Kalim Ahemad,
Age-32 years, Occu:Labourer,
R/o-Behind General Housing Society,
Dist-Dhule

...RESPONDENTS

...

Mr.R.N. Dhorde, Senior Advocate i/b. Mr. D.S. Bagul and Mr. N.B. Suryawanshi Advocates for Appellant.

Mrs. R.P. Gour, A.P.P. for Respondent No.1.
Mr.N.L. Choudhari Advocate for Respondent Nos. 2 to 4 and 6 to 9.

...

WITH

CRIMINAL APPEAL NO.244 OF 2013

The State of Maharashtra,
Through PSO Azad Nagar Police
Station, Dhule.

...APPELLANT

VERSUS

- 1) Sagir Ahemad Kalim Ansari,
Age-41 years, Occu:Labourer,
R/o-Millat Nagar, Dhule,
- 2) Tipu @ Sultan Sagir Ansari,
Age-19 years, Occu:Education,
R/o-Millat Nagar, Dhule,
- 3) Kalim Ahemad Moyoddin Ansari,
Age-62 years, Occu:Labourer,
R/o-Millat Nagar, Dhule,
- 4) Isaq Ahemad Kalim Ansari
(**DECEASED**),
- 5) Mukhtar Ahemad Kalim Ansari,
Age-39 years, Occu:Labourer,
R/o- Maulavi Ganj, Dhule,
- 6) Ekalakh Ahemad Kalim Ansari,
Age-27 years, Occu:Labourer,
R/o-Maulavi Ganj, Dhule,
- 7) Ansari Habib Kalim Ahemad,
Age-29 years, Occu:Business,
R/o-Maulavi Ganj, Dhule,
- 8) Iliyas Ansari Kalim Ahemad,
Age-32 years, Occu:Labourer,
R/o-Behind General Hospital,
Dhule.

...RESPONDENTS

...

Mrs. R.P. Gour, A.P.P. for Appellant.
Mr. N.L. Choudhari Advocate for Respondent
Nos. 1 to 3 and 5 to 8.

...

**CORAM: A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 19TH OCTOBER, 2015

JUDGMENT [PER A.B. CHAUDHARI, J.] :

1. Criminal Appeal No.561 of 2012 was preferred by the complainant Mohd. Aasif Mohd. Abbas Ansari feeling aggrieved by the Judgment and Order dated 2nd August 2012 passed by the Additional Sessions Judge, Dhule in Sessions Case No. 45 of 2011, by which the accused Nos.1, 2, 3, 5, 6, 7 and 8 were acquitted for the offences punishable under Sections 143, 148, 448, 307, 504, 506 read with 149 of the Indian Penal Code and Section 4 read with 27 of Arms Act. While Criminal Appeal No.244 of 2013 was filed by the State of Maharashtra against the same order of acquittal passed in Sessions Case No.45 of 2011, dated 2nd August 2012.

2. We have heard learned counsel for the

rival parties in the matter of order of acquittal as above in respect of original accused Nos. 1, 2, 3, 5, 6, 7 and 8. We have perused the reasons for acquittal recorded by the learned trial Judge. We have also kept in mind the parameters laid down by the Apex Court and particularly Para 24 of the Judgment in the case of **State of Rajasthan vs. Darshan Singh alias Darshan Lal, reported in A.I.R. 2012 S.C. 1973**. We quote Para 24 of the Judgment cited supra, as under:

"24. We are fully aware of our limitation to interfere with an order against acquittal. In exceptional cases where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided,

unless there are good reasons for interference."

3. The learned trial Judge found while making the order of acquittal of above accused that the prosecution failed to prove the offences for which they were charged. Upon perusal of the evidence and reasons recorded by the learned trial Judge, we find that there is no perversity whatsoever in the impugned Judgment and order made by the learned trial Judge in making the order of the acquittal. The view taken by the learned trial Judge, is clearly probable in the light of the settled legal principles relating to extension of benefit of doubt to the accused.

4. To sum up, we find no perversity whatsoever to interfere with the order of acquittal as above. In the result, we make the following order:-

O R D E R

. Both, Criminal Appeal No.561 of 2012 and
Criminal Appeal No.244 of 2013 are
dismissed.

[INDIRA K. JAIN, J.]

[A.B CHAUDHARI, J.]

asb/OCT15