

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4870 OF 2012

Kashinath Satlingppa Wangaje,
Age-Majopr, Occu:Business,
R/o-Matajinagar, Dist-Latur.

...APPLICANT
(Ori. Complainant)

VERSUS

1) Dnyanoba Vankatrao Gude,
Age-Major, Occu:Service & Agril.,
R/o-Kavha, Tq. & Dist-Latur,
(Ori. Accused)

2) The State of Maharashtra,
Through Latur Rural Police Station,
Latur.

...RESPONDENTS

...
Mr. S.S. Halkude Advocate for Applicant.
Mr. B.V. Thombre Advocate for Respondent No.1.
Mr. B.L. Dhas, A.P.P. for Respondent No.2.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 18TH FEBRUARY, 2015

ORDER :

1. Heard learned counsel for Applicant and

learned counsel for Respondent No.1. Perused record. On the ground that notice was not served, the accused came to be acquitted.

2. Learned counsel for Respondent No.1 - original accused submits that separate application for leave and separate document in the form of appeal tendered, should have been filed. Learned counsel submitted that the trial Court has rightly acquitted the accused.

3. There is no substance in the submission that separate application for leave and separate document in the form of appeal tendered, should have been filed. Perused Judgment in the matter of **C.C. Alavi Haji vs. Palapetty Muhammed and another, A.I.R. 2007 S.C. (Supp.) Page No.1705.** Considering the reasonings recorded by the trial Court and dispute regarding notice, there appears to be an arguable case which requires this Court to reconsider and re-appreciate the evidence. As

such leave is granted. The Application is allowed.
Application be converted into Appeal.

4. Appeal is **Admitted**. Mr. Thombre, learned counsel dispenses with notice for Respondent No.1 after admission of the Appeal. The learned A.P.P. dispenses with notice for Respondent No.2 after admission of the Appeal.

5. Action under Section 390 of Cr.P.C. be taken against Respondent No.1 - accused in the trial Court and brief compliance report be called.

6. Paper Book be got prepared.

[A. I. S. CHEEMA, J.]