

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5650 OF 2015

The State of Maharashtra .. Applicant

Versus

Sanjay Ganesh Jatale and others .. Respondents

Shri M. M. Nerlikar, A.P.P. for the Applicant/State.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 18TH DECEMBER, 2015.

PER COURT :

. This is an application seeking leave to file appeal against the judgment and order dated 20.04.2015 passed by the Additional Sessions Judge, Aurangabad in Sessions Case No. 467 of 2011 acquitting accused persons for the offences punishable U/Sec. 395 and 397 of the Indian Penal Code.

2. Mr. Nerlikar, the learned Assistant Public Prosecutor submits that, the accused Nos. 1, 2 and 8 have been identified by the prosecution witnesses. There was no reason to disbelieve the said testimony of witnesses. According to the learned A. P. P. though the F.I.R. was lodged against unknown persons, but during trial accused Nos. 1, 2 and 8 were identified in the

commission of the act. The said accused atleast ought to have been convicted.

3. We have considered the judgment and the argument.

4. The person conducting the test identification parade is not examined. The complaint is filed against unknown persons. The identification for the first time in the Court would not serve any purpose. The learned Judge has rightly relied upon the judgment of the Apex Court in the case of ***Mohd. Kalam Vs. Vs. State of Rajasthan*** reported in **AIR 2008 SC 1813**. There is no seizure also.

5. Considering the above, there is no merit in the present criminal application. The criminal application is rejected. No costs.

[**V. K. JADHAV, J.]**

[**S. V. GANGAPURWALA, J.]**