

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

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.15 OF 2015**

**THE STATE OF MAHARASHTRA )...APPLICANT**

**V/s.**

**MOHAN RAGHUNATH JADHAV & ORS. )...RESPONDENTS**

Mr.Deepak Thakre, APP for the Applicant – State.

**CORAM : ABHAY M. THIPSAY, J.**

**DATE : 17<sup>th</sup> FEBRUARY, 2015.**

**P.C. :**

1           The respondents were prosecuted on the allegation of having committed offences punishable under Sections 341, 143, 147, 504 and 506 of Indian Penal Code (IPC) read with Section 149 thereof. The Judicial Magistrate First Class, Atpadi, after holding a trial, found them not guilty and passed an order of acquittal. The State of Maharashtra is aggrieved by the said order of acquittal, and is therefore, by the present application, seeking leave to appeal therefrom.

2           With the assistance of the learned APP, I have gone through the application and the copy of the impugned judgment that is annexed thereto. I have also glanced through the notes of evidence recorded during the trial, a copy of which has been made available to me by the learned APP.

3           It may be observed that the allegation, as leveled by the prosecution, is itself not very clear and rather absurd. The object of the alleged unlawful assembly is said to be 'to wrongfully restrain one Mahendra Kalappa Koli, while transporting sand from the river bed of Maan river, at Pimpri Khurd village.'

4           The learned Magistrate observed that the witnesses could not state or point out the spot where the alleged incident had taken place. The panch witnesses did not support the case of the prosecution. Mahendra Koli, who was examined as Prosecution Witness No.7, was not believed by the learned Magistrate, for the reasons recorded in paragraphs 12 and 13 of the impugned judgment.

5           The order of acquittal, as recorded by the learned Magistrate, appears to be proper and legal. At any rate, the view of the matter, as taken by the Magistrate, is a possible view. It is well settled that under such circumstances, grant of leave would be futile.

6           Leave refused.

7           The application is rejected.

**(ABHAY M. THIPSAY, J.)**