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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.36 OF 2015
[for leave to file appeal (State)]**

The State of Maharashtra	..Applicant
-Versus-	
Parshuram Shivyogi Waghmare & Ors.	..Respondents

.....

Mrs. S. V. Gajare, APP, for the Applicant-State.

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CORAM: ABHAY M. THIPSAY, J.

DATE :- 27th APRIL, 2015.

PC.:

1] The respondents were prosecuted on the allegation of having committed offence punishable under sections 323, 324 and 325 read with section 34 of the Indian Penal Code. The Judicial Magistrate First Class, Solapur, 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 of this Court to appeal therefrom.

2] I have heard Mrs. Gajare, the learned Additional Public Prosecutor, in support of the application. I have gone through the

application and the copy of the impugned judgment that is enclosed thereto.

3] The case was that the first informant Maryappa, his wife Kashibai and their son Shrimant were assaulted by the respondents.

4] During the trial, nine witnesses were examined by the prosecution including a medical officer.

5] Maryappa, the informant himself and his wife Kashibai did not support the prosecution case. There were two persons Harisingh Bhoi and Dhondappa (PW-5 and PW-6 respectively) who were supposed to be eye witnesses to the incident but they did not support the case of the prosecution.

6] The learned Magistrate noted the medical opinion that the injuries sustained by victims were possible by a fall from a rickshaw.

7] The Magistrate also noted that there were some discrepancies in the matter of the manner of assault and the weapon

used.

8] In these circumstances, if the learned Magistrate felt a doubt about the truth of the case, the same cannot be said to be unreasonable. The view of the matter as taken by the Magistrate is a possible view.

9] It is well settled that when such is the case, grant of leave would be futile.

10] Leave refused.

11] Application is rejected.

(ABHAY M. THIPSAY, J.)