

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.71 OF 2014

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

UMARFARUK ILLAHIBAKSHA CHIKKODIKAR)...RESPONDENT

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

CORAM : ABHAY M. THIPSAY, J.

DATE : 6th APRIL 2015.

P.C. :

1 The respondent and his wife Smt.Hasina were prosecuted on the allegations of having committed an offence punishable under Section 324 of the Indian Penal Code (IPC) read with Section 34 thereof. The Judicial Magistrate First Class, Kolhapur, after holding a trial, found the respondent not guilty, and passed an order of acquittal. The learned Magistrate found the other accused i.e. accused no.2 – Hasina, guilty, and as such, convicted and sentenced her. The State of Maharashtra is

aggrieved by the order of acquittal of the respondent, as passed by the learned Magistrate, and is, therefore, by the present application seeking leave to appeal therefrom.

2 I have heard Mr.Thakre, the learned APP for the State. I have gone through the appeal memo and the impugned judgment.

3 It appears that the First Informant had indeed sustained a bleeding injury. The injury, however, was 'simple' and was apparently caused by a hard and blunt object. The prosecution case was that the injury had been caused by scissors. However, in the course of investigation, no weapon of assault was seized. The Investigating Officer was not examined as a witness. There were no independent witnesses examined to support the incident, though it was the claim of the First Informant that a number of persons had assembled there at the time of assault.

4 The conclusion arrived at by the learned Magistrate
that the accusation against the respondent was not proved,
appears to be proper and legal. As a matter of fact, even the other
accused appears to have been convicted on the basis of the
admission elicited from her during her examination under Section
313 of the Code of Criminal Procedure.

5 In my opinion, this is not a fit case where leave to
appeal should be granted.

6 Leave refused.

7 The application is rejected.

(ABHAY M. THIPSAY, J.)