

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

CRIMINAL APPLICATION (ALP) NO.300 OF 2015

Ashok S. Mane	...Applicant
V/s.	
Radhesh P. Badale & Ors.	...Respondents

Mr.Siddharth S. Deshpande, for the applicant-appellant.
Mr.A.R. Patil, APP for the respondent-State.

CORAM : A.R. JOSHI, J.
DATE : 27TH JULY 2015

P.C.:

1. Heard learned counsel for the applicant in this application for leave to file appeal challenging the acquittal of the respondent nos.1 and 2 in the matter of offences punishable under sections 447,448 read with 34 of Indian Penal Code.

2. The respondent nos.1 and 2 were acquitted by JMFC, Pandharpur in a private complaint lodged by the present applicant being summary trial case no.293 of 2008. The said impugned judgment and order was passed on 29th September 2014.

3. What weighed with the trial Court for acquitting the respondent nos.1 and 2 was locus of the present applicant to file a

complaint taking action for and on behalf of the Trust. In the complaint it is the allegation of the applicant that the respondent nos.1 and 2 are occupying room nos.50 and 55 in the building belonging to the Shri Sant Gadage Maharaj Maratha Dharmashala Trust, Pandharpur, Dist-Solapur and they are trespassers. The complaint was apparently filed in the personal capacity. Though in para no.4 of the complaint it is mentioned that after the change report concerning office bearers of the Trust the present applicant was appointed as Assistant Manager of the Trust, nowhere in the complaint it is mentioned that the complainant was authorized by the Trust to initiate the criminal action by lodging a complaint.

4. Apart from the above what weighed with the trial Court was the pendency of Civil litigation concerning said two rooms which were occupied by the respondent nos.1 and 2. The trial Court also dealt with the aspect of limitation of lodging of the complaint. Considering substantive evidence of mainly that of the complainant and one more employee/servant of the Trust, the trial Court came to conclusion as to failure of the complainant to establish the charges punishable under sections 447 and 448 read with section 34 of Indian Penal Code against the respondent nos.1 and 2.

5. Considering the material brought before the trial Court and considering the pendency of the Civil litigation and considering the own admission of the complaint that the respondent nos.1 and 2 were occupying the rooms since the year 2006 as allegedly given by the earlier trustee, in the opinion of this Court there is nothing to interfere with the impugned judgment and order of the acquittal. As such present application for leave to file appeal is accordingly dismissed and disposed of.

(A.R. JOSHI, J.)