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FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 77 of 2015
The State of Maharashtra Vs. Sharad Ananda Kirgat and others

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr A.R. Patil, APP for the State.

CORAM : A.R.JOSHI,J
DATE : 29th July, 2015

P.C. :

- 1) Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondents in the matter of offence punishable under section 397 of IPC. The impugned judgment and order was passed by the learned Additional Sessions Judge, Sangli on 17th March, 2015.
- 2) The case of the prosecution is that on the relevant night there was dacoity at the jewellery shop and there were about seven to eight dacoits present on the spot. The incident of dacoity and subsequent assault on the injured was noticed by the neighbouring shopkeeper and also one doctor residing in the neighbourhood. The FIR was lodged against the unknown persons. Test Identification Parade was conducted of only one accused i.e. accused No.8. Said TI parade was conducted much belatedly after about seven months. Other accused persons were not put to test identification parade. Even injured persons were also not brought to identify the accused no. 8 in the test

identification parade. Even injured persons were also not brought to identify accused no. 8 in the test identification parade.

3) What weighed with the Trial Court was non-identification of any of the accused as the dacoits. Further the trial Court held that the prosecution could not prove that all the accused used the weapons, that also a deadly weapons, so as to attract the offence punishable u/s 397 of IPC. Even the Trial Court came to the conclusion that the offence u/s 395 of IPC was also not established.

4) Considering the state of affairs and the substantive evidence of the witnesses and mainly considering that except test identification parade of accused no.8, none other accused were put to test identification parade, in the opinion of this Court, there is nothing to re-agitate the matter in appeal. Hence, application for leave to file appeal is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)