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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 98 of 2015.

The State of Maharashtra	.. Applicant.
Vs	
Shivaji Suryabhan Jagtap & ors	.. Respondents.

Mr A.R. Patil, APP for the State.
None for the respondents.

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

P.C. :

- 1) Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondents/original accused nos. 1 to 4 in the matter of offences punishable under Sections 323, 324, 504, 506 read with section 34 of IPC.
- 2) The impugned judgment and order was passed by JMFC Mohol, District Sholapur vide order dated 22nd May, 2015.
- 3) The case of the prosecution is that the incident of assault on the complainant and the other prosecution witnesses

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occurred in the morning of 21st April, 2010. The assault was by means of fist and kick blows and by wooden stick. Recovery of weapon - stick at the instance of the respondents is not established as the pancha did not support the prosecution case.

4) What weighed with the trial Court was the admitted delay of eight hours in lodging the FIR and no explanation of such delay was given by the prosecution. Secondly, that the injury certificate was not collected by the Investigating Officer immediately and not filed in the case. The trial Court also analyzed the substantive evidence of another injured witness PW no. 2 and doubted his testimony on the ground that he could not tell anything as to how he was taken in the hospital for treatment after the incident. The Trial Court doubted another witness PW no.4 being interested witness. Apart from the above, what weighed much with the trial Court was the admitted factual position as to long standing dispute between the complainant party and the accused/respondents about aspect of right of way over the agriculture property. The trial Court accepted the probable defence of false implications out of earlier dispute.

5) ^{3/4} Considering the substantive evidence of the prosecution witnesses, in the opinion of this Court, it cannot be said that the view taken by the trial Court is of such a perverse nature so as to be interfered with in the appeal. There is nothing to allow the State to re-agitate the matter again by challenging order of acquittal. As such there is nothing in the present application and same is dismissed and accordingly disposed of.

(A.R.JOSHI, J.)

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CERTIFICATE:

*Certified to be true and correct copy of the original
signed order.*