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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 405 OF 2014

Sau. Mandakini Tatya Jadhav

.. Applicant
(Org. Complainant)

Versus

Shahaji Vishnu Gajare and ors.

..Respondents
(Respondents 1 to 5/
Org.Accd. 1 to 5)

Mr. Viresh V. Purwant for applicant.
Mrs. S. D. Shinde, APP for State.

CORAM: P. V. HARDAS &
DR. SHALINI PHANSALKAR-JOSHI,JJ.

JANUARY 27, 2015.

P.C.

1. This application has been filed by the applicant/Original Complainant seeking leave to file appeal against the judgment of the 6th Judicial Magistrate, First Class, Pandharpur, in Regular Criminal Case No. 189 of 2001, who, by judgment dated 2/9/2014, acquitted the respondents for offence punishable under Sections 419, 420, 467 read with Section 34 of the Indian Penal Code.

2. The trial court by the said judgment came to the conclusion that the case of the complainant that she had taken hand-loan from the accused as her son wanted to start a poultry business was found to be false

in the light of the fact that C.W. 3 – Satish, son of the complainant, did not depose about his desire to start a poultry business, but had only stated that he required the money for starting a business. The trial court also came to the conclusion that no documentary evidence had been tendered by the complainant to show that her son – CW 3 – Satish needed the hand-loan for depositing the same in the factory. The trial judge also came to the conclusion that there was no evidence on record to show that after obtaining the alleged hand-loan, CW 3 – Satish had started his business. The trial court further came to the conclusion that the complainant in her cross-examination had admitted that prior to the sale deed of the property in favour of accused no.1, she had sold the property to one Satyabhama and thereafter a sale deed in the name of accused no.1 was executed.

3. In respect of the evidence of the forged signature of the complainant on the documents, the trial court at paragraph 28 of the judgment, has found that no reliance could be placed on the evidence of CW 4 – Dr. Shailesh, a Hand Writing Expert, as the Hand Writing Expert had not obtained the specimen signature for comparison and had only compared the signature on the disputed document with the admitted signature on the photocopies of the document, which were furnished for his opinion. The trial Judge further found at paragraph 28 that the Hand Writing Expert had not furnished any data for basing his opinion. The trial court also came to the conclusion that CW 4 – Dr. Shailesh had not deposed about his experience in order to qualify as a Hand Writing Expert. The trial court also came to the conclusion that the Civil Suit filed by the complainant for cancellation of the document had been dismissed. Thus,

appreciating the evidence, the trial court came to the conclusion that the complainant had failed to prove the offence against the accused beyond reasonable doubt.

4. We have heard Mr. V. V. Purwant, learned counsel for the applicant in support of the various grounds which are urged in this application. We have perused the findings recorded by the trial court. Upon such perusal, in our opinion, the view taken by the trial court is a possible view to be taken on the basis of the evidence on record. We do not notice any perversity in the reasoning of the trial court to warrant any interference in this appeal against acquittal.

5. Consequently, Criminal Application No. 405 of 2014 is dismissed. Leave refused.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(P. V. HARDAS,J.)