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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.260 OF 2001.**

The State of Maharashtra	]	
At the instance of Bhosari Police Station	]	... <u>Appellant</u>
Pune	]	Ori. Complainant

V/s.

1. Shridhar Bhalchandra Padhye,	]	
(abated by order dated 21.08.2015)	]	
	]	 Respondents
2. Sunil Vitthal Dhawade	]	(Ori. accused
residing at: Dahadrewadi, Pune	]	Nos 2 & 3)

Ms. Rajashree Gadhvi, APP for the Appellant State.
Mr. Girish B. Badiger, for the Respondent- No.2.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 9th OCTOBER, 2015.

ORAL JUDGMENT :

1. The State has preferred this appeal challenging the judgment dated 2nd January, 2001 of Judicial Magistrate First Class, Khadaki, Pune, under which respondents are acquitted for the offences punishable under Sections 419, 468 read with 34 of the Indian penal Code.

2. The facts of the appeal can be stated as follows :-

On 28th March 1994, S. S. C. Examination for the paper of Algebra was being conducted at Swami Vivekanand Vidyamandir, Dapodi, in between 11.00 a.m. to 1.30 p.m. At that time P.W. 1 Shri. Vasant Jagdale the Principal of said school received inland letter informing that one dummy candidate was appearing for the examination in place of accused No.2 Shridhar Padhey at Seat No.CO33565 in Hall No.16. The name of dummy candidate was mentioned as Sachin Jadhav - original accused No.1. P.W.1 Jagdale, then asked the Supervisor Mrs. Jagtap to verify the said information and accordingly on verification, accused No.1 was found to be sitting as dummy candidate for accused No.2. He was having admission card on which the name of accused No.2 Shridhar Padhey was appearing. It was also found that the signature on the said admission card was forged by accused No.3 Sunil Dhawade. Accordingly F.I.R. (Exh.33) came to be registered against accused Nos. 1 to 3. On the basis of said F.I.R., investigation was taken over by P.W. 5 PSI Hole. During the course of investigation specimen signatures of P.W.1 Principal of school Shri. Jagdale, accused No.2 Shridhar Padhey and accused No.3 Sunil Dhawade were obtained. The disputed signature on the admission card and the specimen

signatures were sent for the examination to Hand Writing Expert. On receipt of report from Hand Writing Expert and on completion of investigation chargesheet came to be filed in the Court.

3. Charge was framed against all the three accused, for the offences punishable under Section 419, 468 r/w 34 of the Indian Penal Code. They pleaded not guilty and claimed trial. During the course of trial, original accused No.1 has expired whereas during the course of appeal accused No.2 has expired. Ultimately this appeal is proceeded against accused No.3 alone.

4. In support of its case, the prosecution has examined in all 6 witnesses and on appreciation of their evidence, the trial Court was pleased to acquit of all the accused.

5. This judgment of trial Court is assailed in this appeal by learned APP for appellant State; whereas supported by learned counsel for accused No.3.

6. At this stage, it may be stated that charge under Section 419 read with 34 was framed only against accused Nos 1 & 2. As a result of death of accused No. 1 during the course of trial and death of accused No.2 during pendency of this appeal, as the case and the appeal against them stands abated, this court now need not consider the evidence relating to charge under Section 419 of the Indian Penal Code.

7. In view of death of accused No.2 Shridhar Padhey during the pendency of the appeal, the only question which remains is whether accused No.3 forged signature of the Principal P.W.1 Shri. Jagdale, on the admission card of accused No.2.

8. On this aspect the material evidence is that of P.W. 5 Investigating Officer PSI Hole and P.W.6 Hand Writing Expert Mr. Salim Khan. P.W.5 PSI Hole, the Investigating Officer has categorically admitted in his cross-examination that there was no other material before him except the opinion of Hand Writing Expert to implicate accused No.3. However, evidence of P.W.6 Hand Writing Expert Salim Khan reveals that he could not express his exact opinion as to

whether the signature on the admission card Exh.Exh.61 was matching with the specimen signature of accused No.3. According to him, he did not and could not find sufficient similarities between the two signatures.

9. In view of this categorical evidence of the Hand Writing Expert, there remains nothing in the prosecution case to implicate accused No.3 with the charge of forging the signature of P.W.1 Jagdale on the admit card of accused No.2 Shridhar Padhye.

10. As a result, there is no merit found in the appeal. Hence acquittal of accused No.3 as recorded by the trial Court needs to be confirmed. The appeal, therefore, stands dismissed, confirming acquittal of accused No.3 for the offence punishable under Sections 419, 468 read with 34 of the Indian penal Code.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

C E R T I F I C A T E

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