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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 815 OF 2001

The State of Maharashtra

.. Appellant

Vs.

Rameshkumar Mahadevprasad Khanna
R/o Bhoj, Tal. : Ulhasnagar, Dist. Thane.

.. Respondent

Mr. A. S. Shitole, APP for appellant-State.
None for the respondent.

CORAM: S. B. SHUKRE, J.

AUGUST 25, 2015.

ORAL JUDGMENT:

1. This is an appeal preferred against the Judgment and Order dated 19/2/1998 delivered by the learned 5th Joint Civil Judge, Junior Division and Judicial Magistrate First Class, Ulhasnagar in Summary Case No. 372 of 1988, thereby acquitting the respondent of the offence punishable under Section 26 (1) F of the Indian Forest Act, 1927.

2. Briefly stated facts of the case are as under:-

On the basis of the complaint filed by the Forest Officer, respondent was prosecuted for an offence punishable under Section 26(1) F

of the Indian Forest Act on the allegation that on 9/9/1987 he had made unauthorized construction in the forest land bearing Survey No. 64 situated at village Bhoj and thereby made encroachment in the forest land. On merits of the case, learned Magistrate found that the complainant – State could not prove beyond reasonable doubt the offence alleged against the respondent and, therefore, by his judgment and order dated 19/2/1998, the learned Magistrate acquitted the respondent of the said offence. Being not satisfied with the same, the State is before this Court in the present appeal.

3. I have heard Mr. Shitole, learned APP for the appellant-State. None had appeared for the respondent-accused. I have carefully gone through the record of the case as well as the impugned judgment and order.

4. Although learned APP for the State has criticized the impugned judgment and order, on perusal of the same along with evidence available on record, I find that the objections taken by the learned APP as regards improper appreciation of the evidence and making wrong conclusions by the learned Magistrate, cannot be upheld.

5. The learned Magistrate, having considered the specific

admissions given by the complainant to the effect that the land in question i.e. Survey No. 64 consisted of two sub-divisions, one sub division admeasuring 15 H 42 R being in the possession of the Forest Department and the other sub-division admeasuring 38 Acres 5 Gunthas standing in the name of the respondent-accused, which was private land and there being no boundary mark existing between the forest land and private land, found that this was a case of no evidence of respondent making any encroachment in the forest land. These conclusions are entirely based upon the evidence available on record and cannot be said to be arbitrary or perverse. Therefore, I find that no case has been made out by the prosecution to enable this court for making any interference in the impugned judgment and order. The appeal deserves to be dismissed.

6. The appeal stands dismissed.

(S. B. SHUKRE, J.)