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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 14 OF 2015

The State of Maharashtra	.. Applicant
Vs.	
Sambhaji Dhondiram Kharat	.. Respondent

Mr. H. J. Dedhia, APP for State.

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

FEBRUARY 27, 2015.

P.C.

1. By this application, the applicant – State seeks leave to file appeal against the judgment of the Additional Sessions Judge, Pune dated 3/7/2014 in Sessions Case No. 516 of 2013 acquitting the respondent/accused for offence punishable under Section 302 of IPC.

2. The trial court had come to the conclusion that no reliance could be placed on the testimony of PW 2 – Paigambar as admittedly at the scene of the incident there was darkness and no light was available. Moreover, the medical history disclosed by the brother of injured to the

Medical Officer was in respect of assault by some unknown person. Admittedly, it was PW 2 – Paigambar who had informed the brother of the victim and this was stated by him to the Medical Officer. Thus, the trial court came to the conclusion that on account of inadequacy of illumination, it was not possible to for PW 2 – Paigambar to have witnessed the incident. The trial court, therefore, found that identity of the accused had not been established. A stone was alleged to have been discovered at the behest of the respondent/accused. The stone on being referred to the C.A. Was not found stained with blood. In respect of the blood stains on the clothes of the accused, the trial court has noticed that the report of the C.A. at Exh. 7 disclosed that the result was inconclusive in respect of grouping of the bloodstains. The trial court, therefore, extended the benefit of doubt to the accused and acquitted him.

3. We have heard learned APP with whose assistance 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 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.

4. Consequently, this application fails and is dismissed. Leave refused.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(P. V. HARDAS,J.)