

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.105 OF 2015

Mr. Girdhari Kishanlal Agarwal

..Applicant

Versus

The State of Maharashtra
and anr.

..Respondents

....

Mr. Sushil Upadhaya i/b. A.M. Saraogi, for the Applicant.
Mrs. Anamika Malhotra, APP, for the State.

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CORAM : A. R. JOSHI, J.

DATE : 4th SEPTEMBER, 2015

P.C.

1. Heard learned Counsel for the applicant in this application for leave to file appeal challenging the acquittal of the respondent in the matter of offences punishable under Sections 323, 504 and 427 of IPC.

2. A private complaint was lodged by the present applicant being Criminal Case No.883/SS/2006 alleging that on 16.11.2007 there was assault on him and snatching of chain and breaking the gold chain, the complainant was then wearing and such assault was by the accused person / respondent.

3. Admittedly the complaint was lodged with the police but it was registered as non-cognizable offence. Copy of the said complaint was produced during the trial Court by present applicant when he examined himself. Said NC complaint is Exhibit-P-7 before the Court. In the cross-examination it is brought on record that said NC complaint do not mention regarding showing of a knife and giving threats of killing by the respondent/accused. Apart from the sole testimony of the present applicant/complainant, no other evidence was produced before the Court. Moreover apart from copy of the NC complaint, no other relevant document showing involvement of the respondent/accused in the alleged offence, was produced before the Court. Consequently the trial Court came to the conclusion as to failure of the complainant to establish the case against the accused and acquitted the accused vide order dated 5.12.2014.

4. Considering the evidence of the applicant/original complainant produced before the trial Court and considering the effect of the cross-examination, in the opinion of this Court there is nothing to interfere with the impugned judgment and

order of acquittal. In other words, it cannot be said that the impugned judgment and order is of such an absurd nature so as to be interfered with. In the result, there is nothing in the present application for leave to file appeal and the same is accordingly dismissed and disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)