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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 28 OF 2015

The State of Maharashtra

.. Applicant

Vs.

Bhagwat Pandu Borse and ors.

.. Respondents

Smt. V. R. Bhonsale, APP for applicant-State.

CORAM: P. V. HARDAS &
A. S. GADKARI, JJ.

JULY 01, 2015.

P.C.

1. By this application, the applicant-State seeks leave to file appeal against the judgment of the Additional Sessions Judge, Nashik, dated 16/10/2014 in Sessions Case No. 238 of 2013 acquitting the respondents for the offence punishable under Sections 143, 147, 148, 302, 323, 504 and 506 read with Section 149 of the IPC.

2. We have heard the learned APP in support of the various grounds urged in the application. With the assistance of the learned APP, we have also perused the findings recorded by the trial court. The trial court, at paragraph 21, has come to the conclusion that the first information

report lodged by PW 1 – Rama Borse was a belated FIR which had been lodged after nearly four days of the incident. At paragraph 32 of the judgment, the trial court has recorded a finding that the evidence of the eye witnesses examined by the prosecution falls in two groups, one group of the eye witnesses necessarily falsify the other group and in such circumstances where the truth and falsehood were so intermingled and mixed and there is no possibility of separating the truth from the falsehood, the only alternative was for rejection of the evidence of the eye witnesses. The trial court has also recorded a finding that the prosecution had utterly failed to prove motive for the accused to have committed the said offence.

3. With the assistance of the learned APP, we have perused the findings recorded by the trial court and we find that 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. Accordingly, this application fails and is dismissed. Leave refused.

(A. S. GADKARI,J.)

(P. V. HARDAS,J.)