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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 42 OF 2015

The State of Maharashtra

.. Applicant

Vs.

Nilesh Ramugra Chouhan and ors.

.. Respondents

Smt. V. R. Bhosale, APP for State.

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

APRIL 21, 2015.

P.C.

1. By this application, the applicant-State seeks leave to file appeal against the judgment of the Additional Sessions Judge, City Civil and Sessions Court, Borivali Division, Dindoshi, dated 22/8/2014 in Sessions Case No. 41 of 2011, acquitting the respondents for offence punishable Sections 379 read with 34 and 413 of the IPC.

2. The trial court acquitted the accused for the offence punishable under Section 379 as well as under Section 413 of the IPC on the ground that the property, which is alleged to have been discovered by the accused

i.e. the stolen gold chain, had been delivered to PW 1 - Nikita and PW 1 - Nikita had failed to produce it in the same condition before the trial court. The trial court, therefore, came to the conclusion that since the property was not identified and was not produced in the court and there was no evidence against accused no.3 in respect of the charge under Section 413 of IPC as the accused had claimed the property, which was recovered from his possession, to be belonging to him, the accused were entitled to be given the benefit of doubt.

3. We have heard the 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 the evidence on record. We do not notice any perversity in the reasoning of the trial court to warrant any interference in an appeal against acquittal.

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

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(P. V. HARDAS,J.)