

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.248 OF 2015

Mr. Shankar Prabhakar Anavkar ..Applicant

Versus

Smt. Snehprabha Laxman Anavkar
and another ..Respondents

....

Mr. Pravin Padawe, for the Applicant.

Mrs. P.P.Bhosale, APP, for the Respondent – State.

....

CORAM : A. R. JOSHI, J.

DATE : 12th JUNE, 2015

P.C.

1. Today by a separate order application for condonation of delay filed by the present applicant is allowed and now the application for leave to file appeal is taken for consideration.

2. The acquittal of the respondent is for the offences punishable under Sections 380, 427 and 454 of IPC in a private complaint lodged by the present applicant. It is Criminal Case No.44 of 2011.

3. During the trial, the complainant/present applicant examined himself and also examined the Police Patil of the

village and office bearers of the Grievance Redressal Forum of village. Mainly the substantive evidence of the complainant shows that the concerned house property was initially belonging to his uncle and according to him the respondent/ original accused, though claimed to be the wife of his uncle, she is not so legally wedded wife and as such cannot claim any right over the said house property. The allegations against the respondent/accused are that on 10th and 11th March, 2011 the respondent demolished the house property and also stolen away various articles from the house and as such he lodged a complaint initially with the police but when the police did not take action he lodged a private complaint to the Court. During recording of the evidence, the trial Court had found out that the applicant had admitted that he had no ownership over the said house property or the land below it and according to him it belong to his uncle. Moreover, he still admitted that in the record of rights of the village said house property is in the name of the respondent. This factual position weighed much with the trial Court coming to the conclusion that the applicant failed to establish the charges alleged for the offences punishable under sections 380, 427, 454 of IPC.

4. Even after going through the substantive evidence of other witnesses i.e. the Sarpanch and office bearers of the Grievance Redressal Forum of village, the trial Court came to the conclusion that there was no evidence regarding any theft committed by the respondent of any household articles. So also there is no evidence or any eye witness to show that said house property was in fact demolished by the respondent on the particular day. The trial Court came to the conclusion that only after reaching the village from Bombay the applicant came to know regarding demolition of the house property and as such he approached the Grampanchayat and then to the police. Considering this factual position and the effect of the substantive evidence before the trial Court, in the opinion of this Court there is nothing to reagitate the matter again so as to interfere with the order of acquittal. In other words, it must be said that the order of the trial Court is not of pervert nature so as to be interfered with. Hence, there is nothing in the application for leave to file appeal and the same is dismissed and disposed of accordingly.

(A. R. JOSHI, J.)