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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 877 of 2015

IN

CRIMINAL APPEAL No. 720 of 2015

Nandkumar Ganpat Pednekar ..Applicant.

Vs

The State of Maharashtra ..Respondent.

Mr Sachin R. Pawar, Advocate for the Applicant.

Mrs Anamika Malhotra, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 29th July, 2015

P.C. :

1) Heard rival arguments on the application for bail during pendency of the appeal preferred by the convicted original accused no.1 for the offence punishable under section 325 of IPC.

2) Accused no.2 is acquitted of all the charges. Even the present appellant accused No.1 is acquitted of the offences punishable u/s 307, 504, 506 r/w 34 of IPC. It is not ascertained whether the State has preferred any appeal challenging the acquittal of appellant accused no.1 and accused no.2 for the offences for which they were acquitted by the trial Court.

3) Now, coming back to the present application for bail preferred by accused no.1, during pendency of the appeal, it is apparent that though the charge against the applicant was u/s 307 of IPC, the injury certificates for the injuries sustained by the

complainant and her husband show only minor CLW and abrasion. Except one CLW on temporal region of the complainant wife, there is no injury on vital part of the body.

4) The trial Court acquitted the appellant for the offence u/s 307 of IPC, as mentioned above, but convicted him u/s 325 of IPC for voluntarily causing grievous hurt. In fact, the injury certificates do not show any grievous hurt sustained by the victim and the complainant, his wife. Though the injury no.1 of the first informant is mentioned as “grievous” which is 'contused lacerated wound' of dimensions 5 x 0.2 x 0.5 cm on left sub-clavicular region said injury cannot be termed as “grievous” as per the definition of grievous hurt u/s 320 of IPC. In any event, this aspect shall be dealt in detail while deciding the appeal as to applicability of section 325 of IPC.

5) In the opinion of this Court, at this stage, the application for bail during the pendency of the appeal can be allowed. Hence, the application is allowed. The applicant be released on same bail, as granted by the trial Court, with fresh bonds. The bail before the trial Court.

6) Application is accordingly disposed of.

(A.R.JOSHI, J.)