

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 114 of 2015.

The State of Maharashtra ..Applicant.
Vs
Salman Mohammad Shafikhan & Anr. ..Respondents.

Mrs P.P. Bhosale, APP for the State.
None for the Respondents.

CORAM : A.R.JOSHI,J
DATE : 27th OCTOBER, 2015

PC. :

1) Heard learned APP for the State on this application for leave to file appeal challenging the acquittal of the respondent nos. 1 and 2 in the matter of offences punishable under sections 353, 294, 504 and 506 read with section 34 of IPC and under section 138 (1) (b) of the Indian Electricity Act, 2003.

2) The impugned judgment and order was passed by the Special Judge, Solapur on 20th June, 2015 acquitting both the respondents of the offences charged. During the trial, six prosecution witnesses were examined. Out of them, PW nos. 1, 2 and 4 are the officers and workman from Electricity Department.

3) What weighed with the trial Court was the substantive evidence of PW no.3 Shivaji who is an independent witness and Corporator of Municipal Corporation, Solapur. The trial Court observed that in the evidence said PW no.3 did not mention as to which abusive words were used by the accused persons i.e. both the respondents. However, he did mention regarding quarrel between the respondents and PW nos. 1 and 2 regarding electricity connection. The trial Court gave benefit of doubt to the respondents on the premise that no independent witness was examined though the abuses and the quarrel was witnessed by the people. The trial Court also came to the conclusion that there was no any panchnama drawn at the shop of the respondents when it was the specific case of the complainant that earlier disconnected electric supply was got reconnected by the respondents and they were using electricity unauthorizedly. The trial Court also placed much emphasis on the lack of material to show that the reconnection of the electricity was at the hands of the respondents.

4) Considering the substantive evidence of the prosecution witnesses, in the opinion of this Court, the view taken by the Special

Court cannot be considered as of such a perverse nature so as to be interfered with in the appeal. In the result, the present application for leave to file appeal is dismissed and disposed of.

(A.R.JOSHI, J.)