

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO.659/2015

Khushalrao s/o Patruji Kawale ..vs.. Arun Mahadeo Vairagade and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A. S. Dhore, Advocate for applicant.

CORAM : A. B. CHAUDHARI, J.
DATED : NOVEMBER 16, 2015

This is an application at the behest of the complainant, against judgment and order of acquittal dated 13.02.2015 in Misc. Criminal Case No. 101/2014 passed by J.M.F.C. Gadchiroli. The order of acquittal has been recorded by the learned trial Judge for non examination of the persons/witnesses who allegedly printed the materials in question allegedly to be defamatory. The trial Judge did not think it fit to record an order of conviction and, in my opinion, rightly.

While dealing with an appeal against acquittal, the Court has to keep in mind paragraph 61 of the judgment of the Supreme Court in **Darshan Singh ..vs.. State of Punjab and others;** **(2010) 2 SCC 333,** which reads thus:

“61. In a case of acquittal, if the trial court's view is a possible or plausible view, then the Appellate Court or the High Court would not be justified in interfering with it. It is the settled legal position that there is presumption of innocence and that presumption is further fortified with the acquittal of the accused by the trial court. The Appellate Court or the High Court would not be justified in reversing the judgment of acquittal unless it comes to a clear conclusion that the judgment of the trial court is utterly perverse and, on the basis of the evidence on record, no other view is plausible or possible than the one taken by the Appellate Court or the High Court.”

In view of above, Criminal Application No.659/2015 is rejected.

JUDGE