

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

CRIMINAL APPLICATION (APPA) No. 649/2014
IN CRIMINAL APPEAL NO. 522/2014.

Balu Ramesh Ingole

-VERSUS-

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B.P.DHARMADHIKARI
& P.N. DESHMUKH, JJ.

DATE : JUNE 26, 2015.

Heard Shri N.A. Badar, learned counsel for
the applicant/appellant and Shri T.A. Mirza, learned
A.P.P. for respondent – State.

2. Our attention is drawn to evidence of
medical officer to urge that the medical officer has not
given depth of the injuries. Evidence of P.W.1 show
that his evidence on previous quarrel between Ramesh
and deceased is hearsay and the evidence about actual
attack also cannot be accepted due to large distance
between his house and the spot of attack i.e. in front of

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house of Demaji.

3. Our attention is also drawn to the fact that P.W.1 has not identified the weapon shown to him as weapon of attack.

4. Evidence of other eye witness i.e. P.W.6 Pooja is also pressed into service with similar comments.

5. Learned counsel submits that when other accused persons namely accused nos. 2 and 3 are acquitted, conviction of accused no.1 Balu i.e. the present appellant is unsustainable.

6. Our attention is also drawn to the fact that even if story is accepted, it shows a single injury or single blow on the deceased.

7. Learned A.P.P. submits that P.W.1 is injured witness and his evidence has been appreciated by the trial Court. The other eye witness namely P.W.6 has corroborated his version. In this situation, at this stage, the evidence on record cannot be appreciated threadbare and at the most hearing of the appeal can be expedited.

8. Perusal of Doctors evidence shows that though breadth of injury and its position on body has

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been mentioned, there is no express reference to its depth, but, corresponding internal injury on heart and lungs have been mentioned. It therefore, cannot be said that the Doctor has not given depth of the injury. Similarly, the evidence of P.W.1 an injured person cannot be discarded merely because he has not identified the weapon produced before the court as weapon of attack.

9. Shri Badar, learned counsel has also attempted to read other evidence on record to plead that this is not a case where on the basis of such evidence, the appellant can be convicted. However, at this stage, crucial appreciation of the evidence at length cannot be undertaken. The appeal is already admitted. We therefore, expedite its hearing. With this, the application is disposed of. No costs.

JUDGE**JUDGE**

Rgd.