

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 274 OF 2014

Shaikh Abdul S/o Shaikh Abbas

.. Appellant

Vs.

Nayyumkha S/o Haidrkha Pathan
and others

.. Respondents

Mr. A.D. Aghav, Advocate for the appellant

Mr. R.J. Nirmal, Advocate for respondent nos.1 to 3

Mr. R.V. Dasalkar, A.P.P. for the respondent/State

CORAM : M.T. JOSHI, J.

DATE : 13/01/2016

ORAL ORDER :

Heard.

2. Learned counsel for the appellant relies on the provisions of section 2(wa) of the Code of Criminal Procedure, to buttress his submission that the present appellant, was in-fact the victim of the offence.

3. Section 2(wa) of the Code of Criminal Procedure runs as under:-

"victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir;".

4. The present case would reveal that the respondents-accused were alleged to have hidden certain explosive material under the heap of the fodder, which was stocked in the field of the present appellant. For the said offence, the respondents-accused were prosecuted for the offences punishable under section 3, 4 and 5 of the Indian Explosive Act, section 25 of the Arms Act r/w. 34 of the Indian Penal Code and section 120-B of the Indian Penal Code. Ultimately, on merit, they were acquitted by the learned Additional Sessions Judge, Jalna.

5. Learned counsel for the appellant submits that as the explosives were hidden by the respondent nos.1 to 3 in the heap of fodder, which was stocked in his field, he or his relatives would have suffered injury because of the explosion and there was every possibility that the appellant would have been arrayed as an accused, as the explosives were found in his field. Therefore, the appellant is the "victim" of the offence and hence entitled to file appeal.

6. The argument of learned counsel for the

appellant is to the effect of stretching of the definition of the term "victim" to an unreasonable extent. Plain reading of the provisions of section 2(wa) of the Code of Criminal Procedure would show that victim is a person who has suffered any loss or has suffered injury due to the act or omission of the accused person. He therefore can not be termed as a victim.

7. In the present case, admittedly, neither the appellant was arrayed as an accused nor any injury is suffered. In the circumstances, Appeal is not maintainable, the same is therefore rejected.

[M.T. JOSHI]
JUDGE

arp/