

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4091 OF 2014

THE STATE OF MAHARASHTRA
VERSUS
BHALCHANDRA AMBAJI PATIL AND ANOTHER

...
Advocate for Applicant : Mr. S.R. Yadav, Additional Public Prosecutor
APP for Respondents: Mr. K.K. Kulkarni

. . .

CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.

DATE : 9TH DECEMBER, 2016.

PER COURT:

1] Heard learned APP for the applicant and learned counsel for respondents.

2] Learned APP appearing for the State submits that evidence of the P.W. No. 14 Tanaji Patil and P.W. No. 16 Ramesh Kore coupled with the medical evidence is not properly considered by the trial court. He further invites our attention to the other evidence and submits that the application seeking leave to appeal may be allowed.

3] On the other hand, learned counsel for respondent submits that the trial court did consider the evidence of the prosecution witnesses and the prosecution has failed to establish the case beyond reasonable doubt and, therefore, the trial court has rightly extended the benefit of doubt. He further submits that innocence of the respondents is reinforced by the impugned judgment and order of acquittal. He further submits that the prosecution has utterly failed to establish the chain of circumstances and, therefore, interference in the impugned judgment and order is not warranted.

4] We have heard the counsel for the parties. With their able assistance, perused the evidence and in particular, the medical evidence, the findings of the trial court and evidence of other prosecution witnesses and, in particular, P.W. Nos.14 and 16.

5] We are of the prima facie opinion that the evidence needs to be re-appreciated. Hence, a case is established for allowing the application, seeking leave to appeal. Accordingly, the application seeking leave to file appeal is allowed. Same stands disposed.

6] Appeal is admitted. On admission Mr. K.K. Kulkarni, Advocate waives notice for respondents. Action under Section 390 Cr.P.C. to follow against the respondents before the Sessions Court at Osmanabad.

[K.K.SONAWANE]
JUDGE

[S.S. SHINDE]
JUDGE

grt/-