

FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8 OF 2016

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Smt. Anamika Malhotra for the Applicant.

Mr. Milind Prabhune i/by S.S.Aradhya for Respondent Nos. 1 to 7.

CORAM : A.S.GADKARI, J.

DATE : 27th June, 2016

P.C.

Heard the learned APP. and the learned counsel for the respondents and with their able assistance I have perused the entire record produced before me.

2) This is an application under Section 378(3) of the Code of Criminal Procedure for leave to file appeal against the impugned Judgment and Order dated 18.3.2015 passed by the 4th Judicial Magistrate First Class, Pandharpur in Regular Criminal Case No.104/1998 thereby acquitting the respondents from the offence punishable under Sections 143,147,148,325,323,337,504 read with Section 149 of the Indian Penal Code and Section 135 of the Bombay Police Act.

3) It is the case of the prosecution that the respondents are residing adjoining to the house of the complainant Navnath Ghodke. The electricity wire was passing through the house of the accused persons and it caused danger to the inmates to the life of the complainant and therefore, the complainant informed this fact to

the MSEB Office. The MSEB Officers inspected the spot on 19.2.1998 in the morning and assured the complainant that they will make arrangement to prevent the danger which may likely to cause due to said electricity wire. It is the further case of the prosecution that on 19.2.1998 at about 1.00 p.m., the accused persons came at the spot and questioned the complainant why the electricity of their house was disconnected. The accused persons abused the complainant. All the accused persons beat the complainant. The accused Nos.2 and 4 and also beat Sitabai and Kondabai with stones and sticks. After the said assault, the complainant Navnath Ghodke (P.W.2) lodged the F.I.R. against the accused. After completion of investigation, the police submitted the charge sheet. The learned Trial Court framed the charge below Exh.23. The said charge was read over and explained to the accused persons in Marathi vernacular to which they denied and claimed to be tried. The learned Trial Court after recording the evidence and after hearing the parties acquitted the accused by the impugned Judgment and Order dated 18.3.2015.

4) The Trial Court while acquitting the respondents from the offence punishable under Section 325 of the Indian Penal Code has held that the alleged injuries received by P.W.1 Mahadeo and P.W.2 Navnath are simple in nature and they did not endanger their life or personal safety. During the course of the cross examination the respondents have elicited certain admissions from the prosecution witnesses and have brought on record the fact that there were disputes going on between the complainant and his family members on one side and the accused persons on the other side. P.W.1 has also

admitted in his evidence that preceding to the date of the commission of the offence the complainant was having dispute over the landed property with Bhanudas i.e. respondent No.3 and various complainants were lodged inter se.

5) I have perused the medical certificates issued in favour of Mahadeo (P.W.1) at Exh.89 and Navnath (P.W.2) at Exh.90. The said medical certificates disclose that the injuries received by the said two witnesses are simple in nature. P.W.4 Dr. Sanjay Kamble in his testimony has admitted that the injuries which are mentioned in Exhibits 89 and 90 are possible due to fall from a motor cycle. It appears to me that due to the earlier enmity between the complainant and his family members on one side and the respondents on the other side, the complainant has lodged the first information report. The learned Trial Court after taking into consideration the entire evidence on record has recorded a finding that the respondents are not guilty of the offence charged against them.

6) The findings recorded by the Trial Court are probable, in view of the facts and circumstances of the case. I find that there is no infirmity either in law or on facts in the impugned Judgment and Order. The application being devoid of merits is accordingly, dismissed.

(A.S. GADKARI, J.)