

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.292 OF 2015

Mr. Ulhas Ramakant Sawant Applicant

Vs.

Mrs. Sumati Waman Sawant & Ors..... Respondents

Mr. M.K. Kocharekar i/by Mr. Dushyant Pagare, Advocate for the Applicant.

Mr. Vivek Singh h/for Mr. Manohar Rajput, Advocate for Respondent no.1.

Ms. A. Malhotra, A.P.P. for the State – Respondent.

Coram : Smt. R.P. SondurBaldota, J.

Date : 4th February, 2016

P.C.

1 This revision application is filed by the original complainant against the concurrent findings of the trial court and the lower appellate court as regards the guilt of the respondents, the original accused. The courts have held that the prosecution has failed to establish that the respondents have committed the offence punishable under Section 379 read with 34 Indian Penal Code. The articles of theft consist of wooden poles and iron wire used for fencing. Though the wooden poles and iron wire were seized by the police during the course of the

investigation, the same was not produced before the court during trial for the purpose of identification through the panch witness. In the absence of this material evidence, the learned Magistrate held that the prosecution had failed to prove the charge under Section 379 Indian Penal Code. The Sessions Court in the criminal appeal preferred by the revision applicant has confirmed the view of the trial court. The Sessions Court has in addition observed that there is no evidence on record to show that the applicant is owner of the stolen articles and that the same were in his possession. It has also observed that the prosecution has failed to give any explanation for non-production of seized articles and hence it creates doubt as to whether the articles were really seized from the possession of the accused. I find no infirmity whatsoever with the findings of the courts below. Hence, the Revision Application is dismissed.

(Smt. R.P. SondurBaldota, J.)