

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

CRIMINAL APPLICATION NO. 11/2016
IN CRIMINAL APPEAL NO. 271/2016.

Vijaykumar Modiramji Oza and another.

-VERSUS-

State of Maharashtra and others.

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 &
KUM. INDIRA JAIN, JJ.

DATE : NOVEMBER 30, 2016.

Heard Shri S.V. Sohoni, learned Counsel
for the applicants/appellants, learned A.P.P. for
respondent no.1 and Shri R.M. Daga, learned Counsel
for respondent nos. 2 to 6.

2. Son of deceased Rameshwar Oza and
brother Vijaykumar are before this Court seeking leave
to challenge acquittal of accused persons by the
Additional Session Judge, Akola in Sessions Trial No.
30/2012.

3. Shri Sohoni, learned Counsel for the
applicants/ appellants has invited our attention to

2

Criminal Application No. 624/2015, seeking leave to place on record statement of one Sangita Manikrao Poharkar, allegedly recorded under Section 161 of Criminal Procedure Code. He submits that Sangita, an eye witness has not been examined. He further states that Gajanan named the accused persons and described their role not only in Section 161 statement, but, also in his statement under Section 164 of Criminal Procedure Code, has turned hostile. He contends that in this situation, leave needs to be granted so as to evaluate the impact of statement of Sangita and also the evidence of eye witness Gajanan.

4. Shri Daga, learned Counsel for the respondent nos. 2 to 6 is opposing the contentions.

5. Learned A.P.P. points out that though the accused persons have admitted most of the documents, the trial Court has found that guilt is not established.

6. Sangita in her statement under Section 161, does not mention that she was in a position to identify any of the assailant. Gajanan has named the assailants, but, then he has turned hostile. The trial Court has appreciated the entire material and thereafter exonerated respondent nos. 2 to 6.

3

7. On the strength of arguments advanced before us, not case is made out to demonstrate that approach of trial Court is erroneous or perverse. Leave is therefore, rejected. No costs.

JUDGE

JUDGE

Rgd.