

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

Criminal Application [APPA] No.27 of 2016

(Sou. Tulsabai Bhashkarji Sontakke

vs.

State of Maharashtra, through P.S.O. Katol, District Nagpur and others)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Shri H.P. Lingayat, Advocate for the Applicant/Appellant.

CORAM : N.W. SAMBRE, J.

DATE : 14th JULY, 2016.

This is an application for grant of leave to prefer appeal against the order of acquittal delivered in R.C.C. No.273/2013 in the matter of *State of Maharashtra vs. Sheikh Sabira Sheikh Ishak and another* for an offence punishable under Section 324 of the Indian Penal Code.

It is the case of the complainant/present applicant that on 25/08/2012, a report came to be lodged by the complainant alleging that while carrying out domestic work at her home on 25/08/2012, the accused persons have assaulted her grandson resulting into registration of Crime No.141/2012. After the investigation, the charge came to be framed at Exh.25 and in support of the claim, the complainant-Tulsabai was examined at Exh.37. The witnesses, apart from Tulsabai, who are examined, are Gajanan, Anna, Pramod and Deoraj.

So far as the evidence on behalf of above referred witnesses is concerned, it was rejected by the learned Court below on the ground that the witnesses were to be the interested one. Witness No.2, who was examined at Exh.40, though has supported the case of the prosecution, however, he claimed that everyday in view of his occupation, he was required to attend the farm and at that time he was attending the agricultural activities. Witness No.3-Anna, who was examined at Exh.42 on the spot panchnama, though has supported the seizure of the stone, which was used for commission of crime, in question, however, it appears that he is the real brother of the complainant. PW-4 Pramod, who was examined at Exh.44, in support of the seizure-panchnama has supported the case of the prosecution.

The overall analysis of the evidence as is brought on record depicts that PW-5 Deoraj has voluntarily appeared before the Court without any witness summon. The only inference that could be brought is that the complainant has brought before the Court being a relative of the complainant. Apart from above, the incident, in question, is witnessed by 12 persons, however, it only the son of the complainant, who has been cited an important witness amongst those 12 persons. In my opinion, the view taken by the learned Magistrate appears to be a probable view.

The guilt, as is sought to be brought in seeking conviction of the appellant, is not beyond a reasonable doubt. The acquittal, as ordered, appears to be justified. No case for grant of bail is made out. Hence, the leave to file appeal against the order of acquittal is rejected.

*sdw

JUDGE

C E R T I F I C A T E

I certify that this order uploaded is a true and correct copy of the original signed order.

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P.A. to Hon'ble Judge.