

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

CRIMINAL APPLICATION (APPA) NO. 598 OF 2016
IN CRIMINAL APPEAL NO. 435 OF 2015

(Mujifar Ali s/o Ramjan Ali vs. State of Maharashtra thr. PSO, PS Nandanwan, Nagpur)

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 &
A.S. CHANDURKAR, JJ.
SEPTEMBER 15, 2016.**

Heard Mrs. K.S. Joshi, learned APP for the appellant – State, Shri R.B. Gaikwad, learned counsel for respondent No. 1 and Shri A.K. Bhangde, learned counsel for the applicant - respondent No. 2.

Shri Mujifar Ali has taken out this application for urgent hearing.

During hearing of the application, it is found that in Sessions Trial No. 208 of 2014, he was accused No. 3 while Respondent No. 1 in this appeal was accused No. 1. Original accused No. 2 – Gaffar Ali s/o Ramjan Ali, died during the pendency of trial.

Challenging the conviction under Section 307 of the Indian Penal Code and under Section 4/25 of the Indian Arms Act, Respondent Nos. 1 & 2 have filed Appeals which are registered as Criminal Appeal Nos. 385/2015 and 387 of 2015. These appeals are before the learned Single Judge of this Court.

In present Appeal, the State Government seeks enhancement of the punishment as imposed and, therefore,

the Appeal under Section 377 (1) of the Criminal Procedure Code is before the Division Bench.

The parties do not dispute that in view of the provisions of Section 377 (3) of the Cr. P.C., even in present appeal, the respondents can seek their acquittal. In view of this statutory provision as also scheme which becomes apparent after reading the provisions of Section 407 of the Criminal Procedure Code, it is clear that all Criminal Appeals need to be heard by the Division Bench only.

Accordingly, we direct that all these Criminal Appeals shall be clubbed together for its final hearing.

List Criminal Appeal Nos. 385 of 2015, 387 of 2015 and 435 of 2015 for final hearing on 16.11.2016 at the end of the Board.

Paper books be made ready in the meanwhile.

JUDGE

JUDGE

*GS.

CERTIFICATE

“I certify that this Order uploaded is a true and correct copy of original signed Order.”

Uploaded by : G. Shamdasani

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