

IN THE HIGH COURT OF JUDICATURE AT BOMBAYNAGPUR BENCH : NAGPUR

**CRIMINAL APPLICATION (APPA) NO. 673 OF 2015 & CRIMINAL
APPLICATION NO. OF 2015 IN CRIMINAL APPEAL NO. OF 2015.**
(The State of Maharashtra .vs. Ramkushan s/o Jagannath Saket)

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

Court's or Judge's orders

Mrs. S.S. Jachak, A.P.P. for appellant,
Mr. A.C. Jaltare, Advocate for respondent.

CORAM : B.R. GAVAI & V.M. DESHPANDE, JJ.

DATED : JUNE 7, 2016.

The present applications have been filed by the State seeking condonation of delay in filing appeal and leave to appeal against the order of acquittal as recorded by the learned Additional Sessions Judge, Nagpur in Sessions Trial No. 174/13 vide judgment and order dated 20.3.2015.

The prosecution case as could be found from the material placed on record is that on 24.12.2012 the first informant Kusum lodged a report in the Police Station Nandanvan stating therein that on the day of the incident at around 4.30 p.m. she heard the noise of quarrel from the house of deceased Anirudha. She states that, therefore, she went there and noticed a quarrel between tenant Chhotu Saket and his wife. She further states that Chhotu was giving abuses to his wife and beating her. She further states that the deceased Anirudha went there and asked Chhotu as to why he was beating his wife. The accused told him as to who he was to interfere in their matter and, therefore,

assaulted the deceased with the screw driver on his chest.

The prosecution relies on the evidence of PW.1 Dilip, PW.2 Kusum – the first informant and PW.3 Archana – the wife of the deceased, the alleged eye-witnesses.

It could thus be seen that all the witnesses are interested witnesses. No doubt that merely because the witnesses are interested witnesses cannot be a ground for discarding their testimony. The conviction could be rested on the basis of testimony of these witnesses if their evidence is found to be cogent, trustworthy and reliable.

The learned trial Judge has found that the oral testimony of the witnesses was not in consonance with the post-mortem report. As such, the learned trial Court refused to rely on their testimony.

The learned trial Court had an occasion to witness the demeanour of these witnesses and he has found them to be not truthful. An interference in the finding of acquittal would be warranted only if the finding is perverse and impossible.

We notice no perversity in the approach adopted by the learned trial Court to warrant interference. The Criminal Applications as well as appeal are rejected.

Judge

Judge

J.