

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

6 CRIMINAL APPLICATION NO.1000 OF 2016

THE STATE OF MAHARASHTRA
VERSUS
SMT.KU. SUMITRA RAOSAHEB TAUR

...

Advocate for Applicant : Mr. SR Yadav, APP
Mr. Deshpande C.R. Adv. for sole respondent.

CORAM : P.R.BORA, J.

DATE : 8th August, 2017.

PER COURT :

1) Heard learned APP appearing for the State and learned Counsel for sole respondent.

2) Perused the judgment delivered by learned Judicial Magistrate First Class, Ausa in R.C.C.No. 02/2013 and the judgment passed by the learned Additional Sessions Judge in Criminal Appeal No. 37/2015. The learned Magistrate has held the accused guilty for an offence under Section 353 of Indian Penal Code, whereas in the appeal, the appellate court has recorded the acquittal of the accused. The learned APP

brought to my notice that on some frivolous grounds, the appellate court has reversed the conviction recorded by the trial Court and the appeal, therefore, needs to be heard on merits.

3) Shri Deshpande, learned Counsel appearing for the respondent-accused submitted that on valid grounds, the learned Sessions Judge has set aside the conviction and acquitted the accused. The learned Counsel pointed out that unexplained delay in lodging in F.I.R. is sufficient to reject the request of the State. Learned Counsel submitted that though the alleged incident was stated to have happened on 31st July, 2012, the first information in that regard came to be lodged on 8th September, 2012 and there is no explanation for the delay so caused.

4) After having considered the submissions and after having read the impugned judgments, it appears to me that debatable issues are raised and the matter needs to be heard on merits. I am, therefore, inclined to allow the present application. Hence, the following order, -

ORDER

- i) The application seeking leave to file an appeal is allowed and disposed of.
- ii) The appeal be registered in accordance with law;
- iii) After registration of the appeal, issue notice to respondent.
- iv) Shri Deshpande, learned Counsel waives notice of appeal for respondent. Service complete.
- v) Call R and P.
- vi) List the appeal for admission on 5th September, 2017.

(P.R.BORA,J.)

bdv/