

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

CRIMINAL APPLICATION NO. 1269 OF 2016

ASHOK RAMDAS PARDESHI
VERSUS
DHONDIBA JAYANT GURAV

...
Advocate for Applicant : Mr.Patil Vijay B.
Advocate for Respondent :Mr.G.A. Nagori.

...
CORAM : V.L. ACHLIYA, J.
Dated: January 25, 2017

...
The applicant has moved this application seeking leave to file an appeal against the judgment and order of acquittal passed by the trial Court.

2. Mr. Patil, learned Counsel for the applicant pointed out that though the Court below recorded the finding that the article published in the newspaper was defamatory in nature, still acquitted the accused by observing that the complainant has failed to prove that his reputation was lowered down in the eyes of others. It is contended that it is not incumbent upon the complainant to examine other witnesses to establish that the

reputation of the complainant has been lowered down in the eyes of others. In support of the submissions advanced, the learned Counsel for the applicant placed reliance on the decision in the case of **Gokuldas Kashinath Naik vs. Kishore Sada Naik & Anr. (2008 B.C.I.66)** (Bombay High Court - Panaji Bench).

3. Mr.Nagori, learned Counsel for the respondent supported the judgment and order passed by the trial Court and submits that there is absolutely no case to file an appeal. He submits that the accused had no intention to defame the complainant. On the very next day of publication of the article in the newspaper, clarification was published that the article does not refer to the complainant and it refers to the person other than the complainant. He, therefore, submits that there was no intention on the part of the accused to defame the complainant.

4. Having appreciated the rival submissions in the light of the ruling cited and the decision rendered in the case, I am of the view that an arguable case has been made out to grant leave to

file an appeal.

5. Hence I am inclined to allow the application. Accordingly, the application is allowed. Leave is granted under section 378(3) of Cr.P.C. to file an appeal against the impugned judgment and order.

6. Appeal be registered and placed for admission on 31st January, 2017. Mr.Nagori, learned Counsel waives notice for respondent.

(V.L. ACHLIYA,J)