

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1179 OF 2017

Sayyad Pasha Ibbrahim Tamboli **APPLICANT**

V E R S U S

The State of Maharashtra & Ors. **RESPONDENTS**

.....

Mr. S.G.Jadhavar, Advocate for Applicant.

Smt. S.S.Raut, A.P.P. for R – 1 - State.

.....

**WITH
CRIMINAL APPLICATION NO. 4337 OF 2016**

The State of Maharashtra **APPLICANT**

V E R S U S

Zahir s/o Mainuddin Attar & Ors. **RESPONDENTS**

.....

Smt. S.S.Raut, A.P.P. for Applicant – State.

Mr. Sayyed Tauseef Yaseen, Advocate
for R – 1 to 4 & 6.

.....

CORAM : V.L.ACHLIYA, J.

DATE : 12th JUNE, 2017

.....

ORDER :

1. Criminal Application No. 4337 of 2016 is taken out by the applicant/State seeking leave to file Appeal as against the Judgment and Order of acquittal recorded by the learned Additional Sessions Judge – 3, Osmanabad in Criminal Appeal No. 149 of 2011.

2. Aggrieved by the same Judgment and order passed by the Sessions Court in Criminal Appeal, thereby reversing the conviction awarded by the trial Court, the complainant has also preferred Appeal and moved application seeking leave to file Appeal which is registered as Criminal Application No. 1179 of 2017.

3. Heard learned A.P.P., learned counsel appearing for the complainant/appellant and the learned counsel representing the respondents and perused impugned Judgment and order passed by the Sessions Court as well as the trial Court.

4. Upon considering the submissions advanced, in my view, case is made out to grant application seeking leave to file Appeal. There are contrary findings on facts

recorded by the Courts below. Trial Court has convicted the accused. The appellate Court has set aside the Judgment and Order passed by the trial Court and acquitted the accused. Thus, the arguable case is made out to be considered in Appeal. Hence, I pass the following order.

ORDER

- [1] Both Criminal Applications are allowed.
- [2] Leave granted to file Appeal.
- [3] Appeal be registered and place for admission on 19/06/2017.

[V.L.ACHLIYA, J.]