

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

**CRIMINAL APPLICATION NO. 1695 OF 2017
WITH
CRIMINAL APPEAL ST. NO. 139 OF 2014**

Deepak Ramdas Johare

..... APPLICANT

V E R S U S

The State of Maharashtra & Ors.

..... RESPONDENTS

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Mr. K.C.Sant, Advocate for Applicant.

Mr. K.S.Patil, A.P.P. for R – 1 – State.

Mr. R.H.Meware, Advocate for R – 2 to 6.

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CORAM : V.L.ACHLIYA, J.

DATE : 20th APRIL, 2017

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ORDER :

1. The applicant has taken out this application seeking leave to file Appeal against the impugned Judgment and Order of acquittal passed by the Additional Sessions Judge, Jalgaon in Sessions Case No. 13/2003.

2. Heard learned counsel for the applicant,

learned A.P.P. for respondent No. 1 – State and learned counsel representing respondent Nos. 2 to 6. Perused impugned Judgment and Order passed by the trial Court.

3. Respondent Nos. 2 to 6 were tried for committing the offences punishable u/ss 148,325 read with section 149 of the Indian Penal Code. On completion of trial, they were acquitted by holding that the prosecution has failed to prove guilt against the accused beyond reasonable doubt. It appears that the prosecution witnesses have supported its case. However, it appears that the Court has acquitted the accused mainly for the reason that prosecution has not explained the injuries caused to the accused in the same incident. It is pointed out by the learned counsel for the applicant that on account of the incident, the counter cases were registered. On the basis of complaint lodged at the instance of respondent Nos. 2 to 6, offences u/ss 147,307,504 read with section 149 of the Indian Penal Code and section 4 read with 25 of the Indian Arms Act came to be registered against the applicant and co-accused. Both the cases were tried by same Court. In both the cases, trial Court has acquitted the accused. As against the Judgment of acquittal passed against the applicant and co-accused, the

State has preferred Appeal which has been admitted by the Division Bench of this Court. He submits that the incident was occurred in front of the house of the applicant. As many as four persons sustained injuries. One amongst them sustained fracture injury. Medical Officer examined in the case has duly corroborated the oral evidence of the prosecution witnesses.

4. On the other hand, learned counsel representing respondent Nos. 2 to 6 supported the Judgment and Order passed by the trial Court. He submits that the Judgment is well reasoned and based on due appreciation of evidence on record. He further submits that in the incident, accused No. 6 has sustained serious injury. He submits that learned Additional Sessions Judge was right in observing that the prosecution has failed to explain the injuries found on the person of accused. He, therefore, urged to reject the application.

5. Having appreciated the submissions advanced in the light of the reasons and findings recorded by the trial Court, I am of the view that a case is made out for grant of leave to file Appeal. There is arguable case which needs to be considered in Appeal. I am, therefore,

inclined to allow the application and hence I pass the following order.

ORDER

[i] The Application is allowed in terms of prayer clause 'A'. Leave granted to file Appeal.

[ii] Appeal be registered and place for admission on 25/04/2017.

[V.L.ACHLIYA, J.]