

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2148 OF 2017

Dadasaheb S/o Mahadeo Aher

Applicant

V E R S U S

Vitthal S/o Bhau Aher & Ors.

Respondents

Mr. R.P. Phatke, Advocate for the Applicant
Mr. S.Y. Mahajan, A.P.P. for Respondent No.7/State

CORAM : V.L. ACHLIYA, J.

DATE : 26TH JULY, 2017

ORDER :

1. The applicant has filed this application seeking leave to file appeal against impugned Judgment and order passed by trial Court in Regular Criminal Case No. 507 of 2012. By the impugned Judgment, the trial Court has acquitted the respondent.

2. Heard the learned counsel for the Applicant and A.P.P. for the State. Perused the impugned Judgment and order passed by the Judicial Magistrate, First Class, Sangamner in Regular Criminal Case No.507 of 2012.

3. In my view, there is no perversity in the impugned Judgment and order passed by trial Court. There was unexplained delay of 12 days in lodging F.I.R. No independent witness examined though incident occurred in day time that too in the main locality. The facts deposed by P.W.2 as to incident found to be hearsay evidence. P.W. 3 found to be carrying animus against accused as the niece of accused No.1 had filed criminal case against him. On consideration of evidence adduced in the case, the learned Judge has arrived to conclusion that prosecution has failed to prove guilt against accused beyond reasonable doubt and acquitted the accused. In this view, the Judgment and order passed by trial Court cannot be termed as perverse. The view taken by trial court is a probable view in the matter. I am therefore of the view that no case is made out to grant leave to file appeal. I am therefore inclined to reject the application. Accordingly, the application is rejected.

(V.L. ACHLIYA, J.)

