

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

CRIMINAL APPLICATION NO. 3085 OF 2017
IN
CRIMINAL APPEAL NO. 654 OF 2016
WITH
CRIMINAL APPEAL NO. 654 OF 2016

Vithal Mahipati Gaikwad

..Applicant

Versus

Pundlik Nivrutti Jadhav and ors.

..Respondents

Mr V.P. Golewar, Advocate for applicant

Mr Kishor Gadhave Patil, Advocate for respondents no. 1 to 4

Mr S.P. Deshmukh, A.P.P. for respondent no.5

**CORAM : S.S. SHINDE AND
A.M. DHAVAL, JJ
DATE : 31st August 2017**

PER COURT

1. Heard learned Counsel appearing for the applicant, learned A.P.P. appearing for respondent no.5-State and learned Counsel appearing for respondents no.1 to 4.

2. Perused the reasons disclosed in the application. For the reasons disclosed in the application delay in filing the application seeking leave to file appeal from the judgment and order dated 16.7.2016 passed by 2nd Additional Sessions Judge, Kopergaon in Sessions Case No.7 of 2015 stands allowed and accordingly disposed of.

3. Perused the statements of the prosecution witnesses and in particular P.W.2 and P.W.3. Prima facie it appears that the evidence of eye witnesses has not been properly appreciated by the Court below. In that view of the matter, it is a fit case to grant leave to file appeal.

4. **Appeal admitted.** On admission, learned A.P.P. waives service of notice for respondent no.5 and learned Counsel K.G. Patil for respondents no.1 to 4.

5. Action under Section 390 Cr.P.C. to follow against respondents no.1 to 4 before the concerned trial Court.

(**A.M. DHAVALA, J.**)

(**S.S. SHINDE, J.**)

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