

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6 OF 2016

THE STATE OF MAHARASHTRA)...APPLICANT

V/s.

**SOU.MANGAL SAHEBRAO CHANDANSHIVE)
AND ANR.)...RESPONDENT**

Ms.A.A.Takalkar, APP for the Applicant - State.

CORAM : A. M. BADAR, J.

DATE : 17th FEBRUARY 2017

P.C. :

1 This is an application for leave to appeal challenging acquittal of respondents for offences punishable under Sections 325, 504, 506 read with Section 34 of the IPC. Heard the learned APP appearing for the State. Perused the evidence of Sujata Chandanshive, Bhamabai Gaikwad as well as that of PW7 Dr.Balasaheb Raut. Consistent evidence of PW1 Sujata Chandanshive and PW3 Bhamabai shows that when she had asked

respondent / accused no.2 Avinash not to dig a trench, respondent / accused Avinash pelted stones at PW1 Sujata, her mother, as well as at PW3 Bhamabai. Evidence of PW7 Dr.Balasaheb Raut shows that PW1 Sujata has suffered fracture injury i.e. fracture of metacarpal bone left side fifth. It is, thus, clear that there is evidence of grievous hurt caused by respondent / accused. It is seen that the learned trial court has given undue importance to minor variations in the testimony of witnesses and there is exaggerated adherence to the rule of benefit of doubt. *Prima facie*, it is seen that without there being sufficient reasons, evidence of injured witness which is corroborated by medical evidence is completely ignored. In this view of the matter, the following order :

- i) Leave granted.
- ii) Application for leave to appeal be considered as Memo of Appeal.
- iii) Admit.
- iv) Issue notice to respondents.
- v) Call for Record and Proceedings.

(A. M. BADAR, J.)