

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 4 OF 2017
(FOR LEAVE TO APPEAL)

The State of Maharashtra	..Applicant
Versus	
Mahommad Arif Akil Chouhan and anr.	..Respondents

Mrs. M. M. Deshmukh, APP for the State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, J J.**

DATE : 24th MARCH, 2017.

P. C. :

Heard Mrs. Deshmukh, learned APP for the State.

2. The application is filed for leave to file an appeal against the judgment and order dated 26th May, 2015, passed by the learned Addl. Sessions Judge, Islampur in Sessions Case No.83 of 2013. By the said judgment and order, the respondents are acquitted of offences punishable under Sections 489(b) and 420 read with Section 34 of the Indian Penal Code, 1860.

3. The charge against the respondents/accused is that they with common intention used counterfeit currency not of Rs.100/- for purchase of bus-ticket while traveling Sangli from Ashta. In order to prove the charge, the prosecution examined in all six witnesses including the complainant - PW-2- S. R. Shingare, Bus-Conductor. The learned Addl.Sessions Judge, after scrutiny of evidence, came to the conclusion

that the prosecution could not prove that the respondents/accused in furtherance of their common intention, knowingly or intentionally used counterfeit currency note of Rs.100/-. The learned Addl. Sessions Judge also held that the prosecution could not prove that respondents in furtherance of their common intention cheated the complainant viz. PW-2-S.R.Shingare, Bus-Conductor by dishonestly inducing him to issue fair ticket by giving counterfeit currency note of Rs.100/-. Though the currency note of Rs.100/- i.e. "Article A" was found to be counterfeit currency, it is not the case of the prosecution that, apart from this note, the respondents/accused were possessing other counterfeit notes. The prosecution must establish "the guilty mind". However, in the present case, the same is lacking.

4. We have perused the impugned judgment and order as well as the depositions of the witnesses and are of the opinion that the findings recorded by learned Addl. Sessions Judge, Islampur, are in consonance with the evidence on record and the same cannot be said to be perverse. The view taken by the learned Addl. Sessions Judge is a plausible view and, therefore, we are not inclined to entertain the application. The criminal application is, accordingly, dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]