

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 37 OF 2017
(for Leave to file Appeal)**

Sunita Sagar MaheshkarApplicant
Versus
Usha Ashok Utkar & Ors.Respondents

Mr. Mohammed Sheriff for the applicant.
Mr. H.J. Dedhia, APP for the State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 28th NOVEMBER, 2017***

P.C. :

1. This is an application for leave to file appeal against the order of acquittal dated 09th November, 2016 in C.C.No. 4600486/PW/2014 whereby the learned Metropolitan Magistrate, 46th Court, Mazgaon, Mumbai had acquitted the respondents of offences punishable under sections 324, 504 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Mohammed Sheriff, learned counsel for the applicant and Mr. H.J. Dedhia, learned APP for the State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The case of the prosecution in brief is that the respondents in furtherance of common intention, voluntarily caused hurt to the first informant-Sunita Utkar and that they also abused her intentionally and

insulted her by using filthy words. The learned Magistrate, after considering the evidence of the first informant as well as the other evidence on record, held that the prosecution has failed to prove the charges levelled against the respondents.

4. The records reveal that the first informant-Usha Utkar has not supported the case of the prosecution and she was cross-examined by the APP. PW3-Sagar Utkar, the husband of the first informant has also not witnessed the incident. There is no other witness to show the involvement of the respondents in committing the said crime.

5. Having gone through the impugned judgment and the notes of evidence, in my considered view, the view taken by the learned Magistrate is probable. The evidence on record does not disclose the essential ingredients of the offence. Hence, the learned Magistrate was justified in acquitting the respondents/accused. The findings of the learned Judge are based on the evidence on record and are neither illegal nor perverse. The order does not warrant interference. Hence, application for leave to appeal is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)