

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.10 OF 2017
(For Leave to Appeal – By State)

The State of Maharashtra V/s.	...	Applicant
Nitin Gangaram Charkari	...	Respondent

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

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CORAM : A.M.BADAR J.

DATED : 12th APRIL 2017.

P.C. :

1 Heard the learned Additional Public Prosecutor. She drew my attention to the evidence of injured P.W.No.1 Ashish, so also to the evidence of medical officers, who were examined as P.W.No.8 and P.W.No.10 before the trial Court. With this, the learned Additional Public Prosecutor argued that the learned appellate Court erred in acquitting the respondent/accused persons when evidence of the prosecution was clinching.

2 I have also perused Judgment and Order of the Chief
Judicial Magistrate, Ratnagiri. *Prima facie*, it appears that it is
seen that the evidence of injured Ashish is not properly considered

by the appellate Court and there is exclusive adherence to the rule of benefit of doubt by the learned appellate Court. Hence, the order :

- (i) Leave, as prayed, is granted.
- (ii) Application for leave to appeal be construed as Memo of Appeal.
- (iii) Admit.
- (iv) Issue notice to the respondent.
- (v) Call for Record and Proceedings.
- (vi) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the trial Court.

(A.M.BADAR J.)