

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

**CRIMINAL APPLICANT NO.38 OF 2015
(For Leave to Appeal – By State)**

The State of Maharashtra ... **Applicant**
V/s.
Tilya @ Tushar Popat Atole ... **Respondent**

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Ms.V.S.Mhaispurkar, APP for the Applicant/State.

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CORAM : A.M.BADAR J.

DATED : 20th MARCH 2017.

P.C. :

1 Heard the learned Additional Public Prosecutor appearing for the applicant/State. Perused the impugned Judgment and Order of acquittal of the respondent/accused of offences punishable under Sections 325, 324, 323, 504, and 506 of the Indian Penal Code.

2 This is a case of single accused and single victim. The evidence of injured P.W.No.1 Eknath shows that the respondent/accused has assaulted him by means of fist and kick blows on his face, ear and ribs. He has stated that his two teeth were broken in the assault. The evidence of P.W.No.6 Medical

Officer shows that there were injuries to the informant, when he was examined on the date of the incident. The evidence of P.W.No.6 shows that the injured P.W.No.1 had suffered fracture injures. Perusal of the impugned Judgment and Order of acquittal, *prima facie*, shows that findings are given on the basis of surmises and conjectures. Hence, the order :

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

(A.M.BADAR J.)