

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.276 OF 2016

MAHABALESHWAR HILL STATION)
MUNICIPAL COUNCIL)...APPLICANT

V/s.

HILL VIEW ROW HOUSES PVT. LTD. & ORS.)...RESPONDENTS

Mr.Dilip Bodake, Advocate for the Applicant.

Mr.S.R.Karpe, Advocate for Respondent Nos.1 to 6.

Mr.A.D.Kamkhedkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 14th MARCH 2017.

P.C. :

1 This is an application for grant of leave to appeal for
challenging the judgment and order dated 20th December 2005
passed the learned JMFC, Mahabaleshwar, on 30th August 2014,
acquitting respondent / original accused of the offence punishable
under Section 21 of the Maharashtra (Urban Area) Protection and
Preservation of Trees Act, 1975.

2 Heard the learned advocate appearing for the applicant / original complainant. By taking me through the evidence of Tree Officer, the learned advocate argued that clear and cogent evidence was adduced by the complainant to demonstrate felling of trees in contravention of the provisions of the Maharashtra (Urban Area) Protection and Preservation of Trees Act, 1975.

3 I have perused the impugned judgment and order so also deposition of witnesses examined by the prosecution. Prima facie, it appears to me that the evidence of the Tree Officer is in consonance with the complaint lodged by him. His evidence shows that six big trees were chopped off in contravention to the provisions of Maharashtra (Urban Area) Protection and Preservation of Trees Act, 1975. Hence, case for grant of leave is made out. Therefore, the following order :

i) Leave, as prayed, is granted.

ii) Admit.

iii) Application for leave to appeal be considered as
Memorandum of Appeal.

iv) Issue notice to respondents.

v) Learned advocate Shri S.R.Karpe waives notice
for respondent nos.1 to 6.

vi) Learned APP waives notice for respondent no.11
– State.

vii) Call for Record and Proceedings.

viii) Action under Section 390 of the Code of
Criminal Procedure before the trial court.

(A. M. BADAR, J.)