

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

CRIMINAL APPLICATION NO. 330 OF 2017

Mr. Jaisingh Shripati Gholap.	..Applicant.
Vs.	
Mr. Jalinder Hanumant Jadhav & ors.	..Respondents

Smt. Sonia K. Miskin, advocate for applicant.

Mrs. V.S. Mhaispurkar, APP for State.

**CORAM : RANJIT MORE, J &
SMT.SADHANA S. JADHAV,J
DATE : SEPTEMBER 6, 2017**

P.C.

1 Heard Smt. Miskin, learned advocate for applicant and the learned APP for State.

2 By the Judgment and Order dated 29/1/2014 learned Additional Sessions Judge acquitted all the Respondents in Sessions Case No. 133 of 2010 charged under section 143, 147, 148, 302, read with section 149 of the Indian Penal Code. The applicant/father of the deceased being aggrieved by this Judgment of acquittal had filed aforesaid application for leave to appeal.

3 The prosecution story is that the appellant-original informant is residing at Mangalwar peth, Phaltan alongwith his wife and two sons. One of

the son Kanif was residing separately in the same house alongwith his wife Indumati and children. There were certain quarrels in between Kanif and accused No. 2 Raju Jadhav and the accused No. 2 had even filed police complaint against Kanif. On 17/5/2010 the accused armed with swords came in order to cause hurt to Kanif and there upon complaint was attempted to be lodged at police station but it was refused to be registered at police station. On 20/5/2010 at about 9. 30 a.m. Kannif was standing on the road in front of Jaymalhar Kirana shop at Kureshinagar and at that time all accused came there from Vadar-galli armed with swords. Kanif saw all of them and started running away from that place in order to save his life but all the accused chased him and inflicted blows of swords on his persons. Kanif fell down and thereafter all the accused went away from that place. Kanif was taken to the hospital where he succumbed to the injuries.

4 In order to prove the guilt of the accused, several witnesses were examined. Out of these witnesses, P.W. Nos. 8,9, 10, 12, 13 claimed to be the eye witnesses. P.W. 8 wife of the deceased Kanif, P.W. 9 cousin brother of the deceased and P.W. 12 Vilas Aware have not supported the prosecution case. So far as the P.W. 10 who is first informant i.e. present appellant is concerned, the deposition discloses that he has not seen actual assailants. Evidence of P.W. 13, though supported the prosecution case, the same is proved to be an improvement.

5 Thus, in short, though the prosecution successfully proved the death of the deceased Kanif is homicidal, the prosecution could not establish that the assailants were the accused. The learned Additional Sessions Judge considered the evidence of the witnesses and came to the conclusion that the prosecution has failed to establish any offence against the Respondent accused. The findings are supported by the cogent reasons. The view taken by the learned Additional Sessions Judge is a possible view and therefore, we are not inclined to interfere in the same. The Application for leave to appeal is therefore, dismissed.

[SMT.SADHANA S. JADHAV,J]

[RANJIT MORE, J]