

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR**

CRIMINAL APPLICATION NO.436 OF 2016

Abdul Rashid Shaikh Mehboob
Bhandari, aged 75 years,
Occ: Agri., President, Dargah
Masjid Trust No.B-135, Kabadpura,
R/o. Kabadpura, Deulgaon Raja,
Tah. Deulgaon Raja, Dist. Buldhana. ..APPLICANT

VERSUS

1. Aslamkha Sarfarajkha Kotkar,
Aged 42 years, Occ: Truck
Owner,
2. Akhtarkhan Sarfarajkha Kotkar,
Aged 30 years, Occ: Truck Owner,
3. Raiyazkha (Babbu) Sarfarajkha
Kotkar, Aged 30 years,
Occ: Business,
4. Inayatkha Azizkha Kotkar,
Aged about 37 years,
Occ: Truck Owner,
5. Altafkha Azizkha Kotkar,
Aged 31 years, Occ: Business,
6. Safirkha Shahejadkha Kotkar,
Aged 27 years, Occ: Business,

All R/o. Jalana Road, Deulgaon
Raja, Dist. Buldhana.

7. State of Maharashtra through
Police Station Deulgaon Raja,
Tah. Deulgaon Raja,
Dist. Buldhana.

..RESPONDENTS

(2)

Mr S.D. Chopde, Advocate for applicant;
Mr N.H. Joshi, Addl. Public Prosecutor for
respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 15th MARCH, 2017

ORAL ORDER :

Heard learned Counsel for the present applicant – original complainant. At the behest of the applicant – original complainant, proceedings being Summary Criminal Case No. 983 of 2008 were initiated before learned Judicial Magistrate, First Class, Deulgaon Raja, Dist. Buldhana, for offence punishable under Sections 323, 506 read with Section 34 of the Indian Penal Code. Non-applicants were acquitted of the said charge by judgment and order dated 2nd May, 2016. As such, present application questioning the order of acquittal.

2. Heard Mr. Chopde, learned Counsel for the applicant at length. He would invite attention of this Court to the evidence of the witnesses, particularly complainant so as to submit that acquittal of the accused persons is not sustainable.

(3)

3. Perusal of the judgment impugned, it is required to be noted that differences ensued between the complainant and applicants on the issue of withdrawal of sign board of Masjid. Learned Magistrate proceeded to evaluate the evidence brought on record by the prosecution and upon appreciation thereof, has reached to conclusion that evidence as is brought on record is not sufficient to infer the involvement of the respondents – accused persons in the crime in question for the offence punishable under Sections 323, 506 read with Section 34 of the Indian Penal Code.

4. After considering the submissions, I hardly see any material in the observations made by learned Magistrate ordering acquittal, when learned Magistrate has taken into account all the facets of the matter. Criminal Application, as such, lacks merit and stands rejected.

(N.W. SAMBRE, J.)