

(1)

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

CRIMINAL APPLICATION (APPA) NO.509 OF 2016

Chandrapur Zilla Dudh Utpadak
Sahakari Sangh Maryadit, Chandrapur,
Bearing Registration No.102, through
its Managing Director, Kotwali Ward,
Girnar Chowk, Chandrapur

..APPLICANT

VERSUS

1. State of Maharashtra,
Through Police Station Officer,
Police Station Rajura, Tehsil -
Rajura, District Chandrapur
2. Udaychandra S/o Chandrayya
Kondawar, Aged about 61 years,
Occu. Business, Resident of
Shivaji Ward, Rajura, Tehsil -
Rajura, District Chandrapur
3. Shantaram Tulshiram Deshmukh,
Aged about 76 years, Occu.
Agriculturist, Resident of
Village Mohadi (Mokasa),
Tehsil – Nagbhir, District
Chandrapur
4. Hanumanthu Hiranman Chahare,
Aged about 75 years,
Occu. Agriculturist,
Resident of Village Unkhoda,
Tehsil – Chamorshi,
District Gadchiroli,
5. Narendra Mukundrao Matte,
Aged about 61 years, Occu.Retired,
Resident of Village Wadgaon,
Behind Police Chowki, Bapat
Nagar, Tehsil – Chandrapur,
District Chandrapur
6. Dilip Ganpatrao Chincholkar,
Aged about 55 years, Occu. Service,
Resident of Ramnagar Colony,
At/PO Rajura, Tehsil – Rajura,
District Chandrapur

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7. Ramchandra Atmaram Lohe,
Aged about 80 years, Occu.Agriculturist,
Resident of Village Kothari,
Tehsil & District Chandrapur
8. Nanaji Govinda Telang,
Aged about 78 years, Occu. Retired,
Resident of Dwarka Nagari,
Anandvan Chowk,
At/PO : Warora, Tehsil – Warora,
District – Chandrapur
9. Anil Shamsunder Deogaonkar,
Aged about 70 years, Occu. Retired,
Resident of Vishwakarma Nagar,
Near Neeraj Nagar,
Chandrapur

..RESPONDENTS

Mr A.R. Patil, Advocate for applicant;

Mr V.P. Gangane, Addl. Public Prosecutor for respondent no.1

CORAM : N.W. SAMBRE, J.**DATE : 17th March, 2017****ORAL ORDER**

Heard.

2. By the present application under Section 378 (4) of the Code of Criminal Procedure, the applicant seeks leave to file appeal for challenging the judgment and order of acquittal dated 30th March, 2015, rendered by the learned Chief Judicial Magistrate, Chandrapur, in Regular Criminal Case No.45 of 2011, whereby the respondents – accused came to be acquitted of the offences punishable under Sections 409, 468, 471, 477-C read with Section 34 of the Indian Penal Code.

(3)

3. There is delay of 400 days caused in preferring the appeal. For the reasons stated in the application, delay stands condoned.

4. The case of the prosecution as could be gathered from the record is, the respondents – accused were alleged to have involved in the offence in relation to a co-operative society, particularly of mismanagement and misappropriation of the amount. The offence is entirely based on the audit report prepared under Sections 81 to 83 of the Maharashtra Co-operative Societies Act.

5. Upon perusal of the judgment of the Court below and the other material available on record, it could be noticed that the author of the audit report, which was formed to be the basis for registration of the crime, who was cited as a witness, was not examined. Once the Auditor was not examined, the document which was formed to be the basis for registration of the crime in question, was not proved.

6. Based on the above, acquittal ordered by the learned Court below appears to be just and proper and does not warrant any interference. Leave refused. Criminal Application, therefore, stands rejected.

(N.W. SAMBRE, J.)

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