

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

Criminal Application (APPA) No. 520 of 2016

(Pushpalata w/o. Sudhakar Koltakke...Vs... Suresh s/o. Bhikaramji Raurale & ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. Shyam Jayswal, counsel for applicant.
Mr. N.B. Jawade, APP for the respondent 5.

CORAM : ROHIT B. DEO, J.

DATE : 28.08.2017.

Heard.

This is an application under section 378(4) of Criminal Procedure Code seeking leave to appeal challenging the judgment and order dated 7.6.2016, delivered in Sessions Trial 199 of 2012, by Additional Session Judge, Amravati, by and under which the accused are acquitted of offence punishable under section 307 of the Indian Penal Code.

The perusal of paragraphs 37 and 38 of the judgment impugned would reveal that the learned Sessions judge has recorded a finding that although independent witnesses

to the incident were available, not a single independent witness is examined. The allegation is of severe assault with stick. This allegation is falsified by the fact that in the medical examination there is no physical injury seen. The other allegation is that Sudhakar was forced to consume poison and there was an attempt to murder Sudhakar. There is no trace of poison in the report of the medical analyzer.

The learned Session Judge has noted that only material witness is examined by the prosecution is Smt. Pushpalata, the informant, who is wife of Sudhakar, Sudhakar himself and Govardhan the brother of Sudhakar. So far as Govardhan is concerned, the learned Sessions Judge has recorded a finding and rightly so that his presence on the spot has not been proved. Fourth witness who otherwise could have been an independent witness one Bhande has not supported the prosecution.

The view taken by the learned Sessions Judge is eminently plausible and possible. The judgment is certainly not perverse. There is no reason to have a second look at the judgment of acquittal. Application seeking leave under section 378(4) of the Code of Criminal Procedure is rejected.

JUDGE

Belkhede, PA