

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 89 OF 2018**

Shri Adgonda Devgonda Patil

....Applicant.

Vs.

Shri Pandit Vasant Rao Barave & Ors.

....Respondents.

Mr. Manoj Patil for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 24th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr. P.C. for leave to file Appeal against the Judgment and Order dated 16th July 2015, passed by the learned Judicial Magistrate, First Class, Jaysingpur, District Kolhapur in Summary Criminal Case No. 1238 of 2007, thereby acquitting the Respondent Nos. 1 to 3 from the offence punishable under Sections 323 and 506 of the Indian Penal Code.

2 Heard Mr. Patil, the learned counsel for the Applicant and the learned APP. Perused the record.

3 The Applicant is the original Complainant in the aforesaid case.

It is the case of the Applicant that, he and his son were assaulted by the Respondents over the dispute of landed property with stick. As the police did not record the First Information Report, the Applicant was constrained to file aforesaid private complaint.

4 The evidence on record indicates that the Applicant, while giving the history of assault to the Medical Officer, has stated that, the accused persons assaulted him on his head with a stone. In the substantive evidence before the Trial Court, the Applicant had stated that, the accused persons had assaulted him with a stick. The said alleged weapon of assault is not produced before the Court thereby establishing the fact that the alleged injuries suffered by the Applicant were due to the said weapon i.e. by stick. The medical evidence further clearly reveals that, the injuries suffered by the Applicant were simple in nature. It is therefore the reason that, the police did not take cognizance, record the offence on the complaint of the Applicant. As the Applicant has failed to prove his case beyond reasonable doubt by leading sufficient and cogent evidence, the Trial Court was pleased to acquit the Respondents from the charges framed against them.

5 After perusing the record, I find no error either in law or in facts in the impugned Judgment and Order dated 16th July, 2015. The

view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

No case for grant of leave to file Appeal is made out.

6 Application is accordingly rejected.

(A.S. GADKARI, J.)