

Sequeira

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

**CRIMINAL APPLICATION NO. 1041 OF 2017
in
CRIMINAL APPEAL NO. 350 OF 2016**

Shri Krishnathrao Ganpati Hajare ... Applicant / Appellant
Vs.
The State of Maharashtra ... Respondent

Mr.M.S.Mohite i/b Shivaji Masal, for the Applicant.

Ms.M.M.Deshmukh, APP, for State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.***

Date : September 3, 2018.

P.C. :

Heard learned counsel appearing for the Applicant and
learned APP for State.

2. Learned counsel for the Applicant invites our attention to
the deposition of Prosecution Witness No.8- Smt.Suman Umaji
Bhandare and submits that, it is highly impossible that she arrived at

spot of incident by running distance of two kilometres. It is stated by her that, she was not aware about the incident and came to know about the incident from her son, who is serving at Mumbai. Learned counsel further invites our attention to the cross-examination of PW.No.8 (Smt.Suman Umaji Bhandare) and submits that on account of some civil dispute between the family of the informant and the Accused No.4 i.e. Applicant herein, Applicant has been falsely implicated in the alleged offences. The Applicant-appellant was on bail during the trial. He also invites our attention to the evidence of PW.No.2 – Shri Sanjay Pandit Waghavkar and submits that, his statement was recorded after two days of the incident. It is submitted that, PW2 has admitted in his evidence that, he did not narrate the incident to the police though the police were present at the spot of incident. The fact that his statement was recorded after two days creates serious doubt about trustworthiness of his evidence. He also invites our attention to the evidence of PW.3 -Prashant Tukaram Ghuli and submits that in fact, he has not witnessed the incident and PW3 has narrated the contents of the FIR to the police as has been told by PW.8-Suman. In fact, really if PW3 would have witnessed the incident, then there was no need of asking PW.8 about the actual happening of the incident and in turn stating the version of PW8 while registering the FIR. Therefore, learned counsel appearing for the Applicant submits that, Applicant-appellant - Krishnatrao Hajare deserves to be released on bail thereby suspending substantive part of the sentence during the pendency of the present Appeal.

3. On the other hand, the learned APP appearing for State submits that there are three eye-witnesses to the incident. The version of the eye-witnesses gets corroboration from the medical evidence and therefore, the findings recorded by the trial Court are in consonance with the evidence brought on record by the prosecution.

4. We have given careful consideration to the submissions of the learned counsel appearing for the Applicant and learned APP appearing for State. We have carefully perused the notes of evidence of prosecution witnesses Nos.2, 3 and 8. We have also carefully perused the medical evidence. The version of PW.8-Suman in her deposition that she saw the accused assaulting her husband, deceased-Umaji Bhandare gets corroboration from the medical evidence and also from the evidence of other two witnesses. If the evidence is considered in its entirety, prima facie it appears that findings recorded by the trial Court are in consonance with the evidence brought on record by the prosecution. Upon perusal of the evidence of PW.8-Suman, it appears that at 6.00 a.m. on the date of incident, accused No.1-Shahaji went to her house and under the false pretext that his wife has sustained burn injuries took Umaji (deceased) to his house and thereafter all the accused committed murder of Umaji. The spot of the incident is in front of the house of the one of the Appellant. Hence, we are not inclined to enlarge the Applicant on bail. Hence, the Application stands rejected.

5. The observations made hereinbefore are prima facie in nature and confined to the adjudication of the present Application. Hearing of the Appeal stands expedited.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)