

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

**CRIMINAL APPLICATION NO.97 OF 2017**

**(For Leave to File an Appeal)**

|                             |                 |
|-----------------------------|-----------------|
| The State of Maharashtra.   | ... Applicant   |
| Versus                      |                 |
| Sudhir Ankush Mohite & Anr. | ... Respondents |
| .....                       |                 |

- Smt. Sangeeta D. Shinde, APP for State - Applicant.

**CORAM : B. P. DHARMADHIKARI &  
SARANG V. KOTWAL, JJ.  
DATE : 21<sup>st</sup> DECEMBER, 2018.**

**P.C. :**

1. Heard learned APP. She contends evidence on record clearly brings out motive and only missing link is an eyewitness to actual assault. The injured was threatened on earlier day and was assaulted from behind with an Axe. These facts are sufficiently brought on record. There is also extra-judicial confession to P.W.5 Shalan Mohite i.e. mother of injured and she has been disbelieved unnecessarily.
2. We find that evidence of injured is appreciated by trial

Court. It is found that he was assaulted from behind and became unconscious. He therefore could not disclose the identity of the accused.

3. This assault has taken place on 28/02/2013 and thereafter injured was admitted in hospital on same day. Informant had gone to police station on next day i.e. 01/03/2013. He did not then point out the earlier incident of threatening dated 27/02/2013.

4. Insofar as alleged extra-judicial confession is concerned, evidence of P.W.5 mother is found not trustworthy. Her conduct along with conduct of P.W.4 Prakash Mohite, forms consideration in paragraph No.68. Trial Court has found that it does not inspire confidence at all. There is nothing wrong with this conclusion.

5. It is claimed that assault weapon namely an Axe has been recovered u/s 27. This discovery is considered in

paragraph No.17 of Judgment. Trial Court has taken note of fact that Axe belongs to informant and is found in the field of informant and injured and it did not have any human blood on it.

6. Thus, except for alleged threat on 27/02/2013, there is nothing on record to connect the accused with crime.
7. We find that trial Court has rightly appreciated the controversy and there is no perversity.
8. No case is made out. Hence rejected.

**(SARANG V. KOTWAL, J.)**

**(B. P. DHARMADHIKARI, J.)**