

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 286 OF 2016**

Ramesh Yashwant Adurkar

....Applicant.

Vs.

The State of Maharashtra & Ors.

....Respondents.

Smt. Indrayani Koparkar for the Applicant.

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

CORAM : A. S. GADKARI, J.

DATE : 16th APRIL, 2018.

P.C.:-

Leave to amend to correct the cause title and prayer clauses. Amendment to be carried out forthwith.

2 This is an Application under Section 378 (4) of Cr.P.C. for leave to file Appeal against the Judgment and Order dated 28th November, 2015 passed by the learned Additional Sessions Judge, Khed in Sessions Case No. 33 of 2013 thereby, acquitting the Respondents from the offences punishable under Sections 395, 452, 147, 148, 323, 336, 427, 504, 506 read with Section 1149 of the Indian Penal Code.

3 Heard the learned counsel for the Applicant and perused the record.

4 The Applicant is that the Original Complainant in CR No. 29 of 2012 registered with Guhagar Police Station for the afore-stated offences punishable under the provisions of Indian Penal Code.

It is the prosecution case that, the Respondents had spread fish on a road for the process of drying it, to which the Applicant objected. The altercations ensued in a free fight and in the said fight, it is alleged that the Respondents along with other 200 persons assaulted the Complainant/first informant and his family members, robbed a chain made from the Gold metal from his person, damaged his house and assaulted him with fists and iron rod. After completion of investigation, the police submitted charge-sheet.

5 The investigating Officer, in his substantive evidence before the Court has admitted the fact that, during the course of the investigation, it is revealed that, the allegation of robbing of the Gold chain from the person of the Applicant, has no substance in it. It was further revealed that, the iron rod which has been alleged to have been used in the present crime and which is seized from the scene of offence, was in fact, not used while committing the present crime. The medical evidence on record does not support the case of the Complainant *inter-alia* to say that the injuries alleged to have been

suffered by the Applicant, are not supported by the said Medical Certificate and the injuries suffered by the Applicant are simple in nature.

6 The evidence on record reveals that, the Applicant has filed the present case due to the earlier enmity between the parties *inter-se*. The allegations against most of the Respondents are vague and general in nature. The prosecution has clearly failed to prove the case beyond the reasonable doubt against the Respondents.

7 After perusing the record, this Court is of the opinion that, 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.

8 Application is accordingly rejected.

(A.S. GADKARI, J.)