

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.414 OF 2018**

Gokul Sakharam Jadhav

**...Applicant**

V/s.

Shridhar Dattaram Jadhav & Ors.

**...Respondents**

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Mr. G.H. Keluskar, Advocate for the Applicant.

Mr. P.H. Gaikwad Patil, APP for respondent No.5/State.

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**CORAM : A.M.BADAR, J.**

**DATED : 17<sup>th</sup> OCTOBER 2018.**

**P.C. :**

1. This is an application by applicant/original complainant for challenging the Judgment and Order dated 18.07.2018 passed by the learned Judicial Magistrate First Class, Rajapur, Dist.Ratnagiri in Regular Criminal Case No.40 of 2011, whereby the respondents/accused came to be acquitted of the offence punishable under Section 427 read with Section 34 of the Indian Penal Code.

2. Heard the learned counsel appearing for the applicant/original complainant. He took me through the evidence of all five prosecution witnesses and argued that even PW5 Kishan Bausaheb Jagdale, Plantation Officer working with the Social Plantation Department of the State has supported the case of

prosecution. The learned counsel further argued that on only one technical ground the complaint was dismissed.

3. I have considered the submissions so advanced and perused the complaint as well as copies of deposition of prosecution witnesses.

4. The subject private criminal complaint came to be filed on 06.07.2011 by the applicant/original complainant. Prior to that, just a day before i.e. on 05.07.2011, the complaint was filed with the concerned police station and alleging that no action is taken, recourse of filing private criminal complaint was taken.

5. Averments in the complaint filed by the applicant were to the effect that Social Forest Department of the State under the provisions of Mahatma Gandhi National Rural Employment Guarantee Scheme has raised a plantation on Survey No.4 admeasuring 4 H.43R. land of a village Vetye in Taluka Rajapur, Dist.Ratnagiri. After maintaining the said plantation for three years, it was handed over to the Granpanchayat Vetye in the year 1987-88. As per the Scheme of the State, 10% of the income earned from the plantation was to be reimbursed to the State, whereas 25% of the income earned from the plantation was to be used for maintenance of the plantation. Rest of the 50% of the income was to be used for poor and below poverty line people from the village. The complainant alleged that in the year 2009, all accused persons indulged in illicit felling of that plantation and sale of trees. In order to bring home the guilt to the

respondents/accused, the complainant has examined himself as PW1 and has also adduced evidence of Ramakant Jadhav as PW2, Anil Narvekar as PW3, Yashwant Shetye as PW4 and that of Plantation Officer Kishan Jagdale, who is examined as PW5.

6. I have carefully perused evidence of all these five witnesses. They have not deposed about the incident of witnessing illicit felling of plantation by the accused persons. Vague and omnibus statement is made by the applicant/original complainant that the respondents/accused had caused felling of planted trees in the year 2009. No specific data and details on this aspect are coming on record through the evidence of the complainant and his witnesses.

7. The alleged incident of illicit felling took place in the year 2009 as per the averments of the complainant. The subject criminal complaint was lodged on 06.07.2011. It is averred that the complainant had lodged report in this regard on 05.07.2011. The long delay in approaching the police and the Court is not getting any plausible explanation from the evidence of the complainant and his witnesses.

8. In other words, plausible view is taken by the learned trial Court in acquitting the respondents/accused of the alleged offence. It needs no interference at the hands of this Court.

9. The application for leave to appeal is therefore rejected.

**(A.M.BADAR J.)**