IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.144 OF 2017
(FOR LEAVE TO FILE APPEAL)

The State of Maharashtra .... Applicant

versus

Jaishri Shivaji Kamble & Ors. ... Respondents

.....

- Mrs.M.H. Mhatre, APP for the State/Applicant.

CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 26th JULY, 2018.

P.C. :

1. This is an Appeal against acquittal of the Respondent/Accused for the offence punishable u/s 307, 504, 506 r/w 34 of the Indian Penal Code.

2. Mrs.M.H. Mhatre, the learned APP, submits that the evidence of injured witness P.W.3 Atish Rajkumar Mane is duly corroborated by the evidence of P.W.5 Suraj Digambar Dilpake and the other eyewitnesses.

3. The learned Trial Judge has found that there was delay of four days in lodging the FIR. No doubt that merely because there is delay in lodging the FIR, it would not be fatal to the prosecution case. However, such delay is required to be explained. In the present case, the learned trial Judge found that though the father of the victim, Rajkumar Nijappa Mane, the first informant, was present when the incident had taken place, he has lodged FIR after four days. Insofar as the P.W.5 Suraj Digamber Dilpake is concerned, the learned trial Judge has found, that he has admitted that during night of the date of occurrence of the incident, the police had come to civil hospital and that though the police station was on the way to Civil Hospital from the house, no information was given to the police regarding the offence of incident. The learned trial Judge further found that the ocular testimony of the witnesses was totally contradictory to the medical evidence.

4. Interference in the acquittal would be warranted only

if the view taken by the learned Trial Judge is found to be perverse of impossible. On the contrary, in the present case, the view taken by the learned trial Judge is in consonance with the legal position.

5. No perversity or impossibility is noticed to warrant interference. Hence the Application for leave to Appeal is rejected.

(SARANG V. KOTWAL, J.) **(B. R. GAVAI, J.)**