

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

CRIMINAL APPLICATION NO.04 OF 2018

The State of Maharashtra

... Applicant

V/s.

Mr. Vithoba Kalapa Kalyani & Ors.

... Respondents

Mr. A.R. Kapadnis, APP for the Applicant State.

CORAM : A.S.GADKARI, J.

DATE : 19th MARCH, 2018

P.C.:

1. This is an application under Section 378(3) of Cr.P.C for leave to file appeal against the judgment and order dated 11.09.2017 passed by the learned Judicial Magistrate, First Class, Court No.7 at Solapur in R.C.C.No.304/2015, thereby acquitting the respondents under Section 324, 325, 504 r/w.34 of the Indian Penal Code.

2. Heard the learned APP and perused the record.

3. The record clearly reveals that, there is a delay of about 2 days in lodging the present crime. The first informant did not lodge FIR despite the Investigating Officer had been to him immediately after the alleged incident took place and it was informed to the Investigating Officer by the first informant that, as his relatives are not present, a discussion to lodge the

FIR is yet to take place. The record further indicates that, the first informant was conscious and well oriented and despite the same, did not lodge FIR immediately.

4. Apart from the said fact, the record further indicates that, the prosecution has failed to establish the guilt of the accused-person beyond reasonable doubt by leading cogent and sufficient evidence in that behalf.

After perusing the entire 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 is made out to grant leave to file appeal.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)