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

WRIT PETITIOIN NO. 324 OF 2004

THE STATE OF MAHARASHTRA .

..Petitioner

Vs

ASHOK DATTATRAYA PATIL

.Respondent

Ms. Veera Shinde for Petitioner/State.

CORAM : A.S.GADKARI, J.

DATE : 12th September 2018.

P.C.:

1] By the present petition, the State has challenged the legality of the Judgment and Order dated 10.11.2003 passed by the learned Sessions Judge, Thane in Criminal Appeal No.48 of 2003 thereby setting aside the Order passed by the Authorised Officer and Deputy Conservator of Forest dated 13.8.2003, ordering confiscation of a truck bearing No.MH-12-7355.

2] It is the prosecution case that, on suspicion the Assistant Conservator of Forest searched the Truck of the respondent and found teakwood in it. That the said teakwood is a prohibited commodity under the Forest Act 1972. It is the contention of the respondent that, the said truck was given on a rent to the accused persons for transportation of some

other material, however, the said accused persons without permission of the respondent illegally transported teakwood from it. The said truck was seized on receipt of information and on suspicion that other accused persons were using it for illegal transportation of teakwood.

3] Perusal of the impugned Judgment and Order would indicate that, elaborate reasoning has been given by the Appellate Court while setting aside the Order passed by the Authorised Officer and Deputy Conservator of Forest dated 13.8.2003. The case of the prosecution as against the respondent is based on presumption and surmises and it is well settled position of law that mere suspicion of alleged commission of some offence is of no avail to the prosecution, as suspicion however strong it may be does not make legal foundation for basing conviction.

4] After perusing the entire record, this Court is of the considered view that, the learned Sessions Judge, Thane has not committed any error either in law or on facts while passing the impugned Judgment and Order.

Petition being devoid of any merits, is accordingly dismissed.

Anil
Chandrakant
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(A.S.GADKARI, J.)