

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

CRIMINAL APPLICATION NO.93 OF 2018

Mumbai Municipal Corporation

..Applicant

Vs

Smt. Veena Bhatia & Ors.

..Respondents

Mr. Mohit Jadhav a/w. Mr. Kunal Waghmare for the Applicant.
Ms. R.M. Gadhvi, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 14th MARCH 2018.

P.C.:

1. This is an application under Section 378(4) of the Cr.P.C. seeking leave to file appeal against the judgment and order dated 05.03.2014 passed by the learned 39th Metropolitan Magistrate First Class, Vile Parle, Mumbai in CC No.5198/SS/2011, thereby acquitting Respondent No.1 from the offence punishable under Section 354 r/w.475-A[1](a) of the Mumbai Municipal Corporation Act.
2. Heard the learned counsel for the applicant and the learned APP. Perused the record.
3. The evidence on record indicates that, the notice in question issued by the applicant under Section 354 of MCGM Act was as vague as possible and did not mention any correct description for the repairs to be carried out

by the respondents. The notice indicates that the Respondent No.1 was called upon to repair the entire building and to take appropriate steps from preventing the fall of the said building which was in critical condition. The record further indicates that, the complaint was also vague on the point as to, what specific offence was committed by the Respondent No.1 and also the non compliance of the notice issued by the Corporation to the Respondent No.1.

4. It is a matter of fact that, Respondent No.1 in her personal capacity cannot carry out repairs of the entire building and prevent it from collapse. That the said notice was not issued to the office bearers of the society, who infact owned the said building. The record further indicates that it was the specific defence of Respondent No.1 that there was a dispute between her and the original complainant Smt. Veena Bhatia and at the behest of the said complainant, the present prosecution is lodged. The Trial Court has accepted the said defence while acquitting Respondent No.1.

5. 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.

6. No case is made out to grant the leave.

7. Application is accordingly rejected.

(A.S.GADKARI, J.)