

*Nalawade*FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 94 OF 2018

Laikali Uismail Bandar vs. The State of Maharashtra and ors.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.M. Arjunwadkar for the Applicant.

Ms. V.S. Mhaispurkar, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 15th March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.PC. for leave to file appeal against the impugned Judgment and Order dated 15.7.2017 passed by the learned Judicial Magistrate First Class, Gadhinglaj in RCC No.36 of 2012 thereby acquitting the respondents from the offence punishable under Section 379 and 447 read with 34 of the Indian Penal Code.

2. Heard Shri. Arjunwadkar, the learned counsel for the applicant and the learned APP for the State. Perused the record.

3. The evidence on record indicates that the applicant in his cross examination has admitted the fact that the respondents were also having ownership over the property in question i.e. sugarcane which was alleged to have been standing in the field.

The applicant has failed to adduce sufficient and cogent evidence to establish the basic fact that he was having exclusive right, title and interest in the said alleged movable property in question. It further appears from the record that there are several litigations pending between the parties inter-se and in order to settle the civil proceedings pending against the respondents, the applicant has taken the shelter of instituting the present complaint. The evidence on record further clearly indicates that the applicant has failed to adduce sufficient and cogent evidence for establishing the alleged act of criminal trespass against the respondents. After perusing the record, it appears to this Court that, the lodgment of complaint by the applicant is a sheer abuse of process of law adopted by the applicant to settle the matter with the respondents.

4. After perusing the 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.

5. No case for grant of leave is made out.

6. Application is accordingly rejected.

(A.S.GADKARI, J.)