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

CRIMINAL APPLICATION NO. 236 OF 2014

Smt. Alka Sovind Chandewar

..Applicant

Vs

Vijay Ramchandra Prabhu & Anr.

..Respondents

Mr. S.I. Kantharia for applicant.

Mr. V.V. Gangurde, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 8th MARCH 2018.

P.C.:

1] This is an application under Section 378 (4) of the Cr. P.C. seeking leave to file an appeal against the Judgment and Order dated 10th April 2014 passed by the Metropolitan Magistrate, 65th Court, Andheri, Mumbai in C.C. No.859-PS-07, thereby acquitting the respondent No.1 for the offence punishable under Section 509 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant. Perused the record.

The record indicates that, the alleged incident in question took place on 27.7.2007 at about 6.30 p.m in the evening. The applicant

thereafter immediately approached the Police for lodgment of complaint. The police after recording her statement informed her that no cognizable offence is made out as per her version and did not lodge crime. That on 28.7.2007 the applicant again went to the police station and by improving her version, lodged the present crime. The Trial Court in its Order has come to the conclusion that, the Prosecuting Agency has failed to prove the alleged offence beyond reasonable doubt by leading reliable and trustworthy evidence. The Trial Court has further observed that, various necessary pieces of evidence in support of the prosecution case are lacking and therefore proceeded to acquit the respondent No.1 for offence levelled against him.

3] Perusal of record further indicates that, the applicant is well connected to a political party and had contested the Municipal Corporation election from the local Ward in the year 2005. It appears from the record that, by using her clout over the police machinery had lodged the present crime in absence of any sufficient and cogent evidence. As noted hereinabove, the version narrated by the applicant on 27.7.2007 to the police for the first time did not reveal any cognizable offence and it is only on 28.7.2007 on the basis of improved version, a cognizable offence had

been registered. The finding of the Trial Court that, it is a glaring example of sheer abuse of process of law has substance in it.

4] After perusing the entire record minutely, this Court is of the of the considered view that the finding recorded by the Trial Court is a probable view in the facts and circumstances of the present case. No case for grant of leave to file appeal is made out.

5] Interim relief granted by an Order 5th August 2014 with respect to payment of cost is hereby vacated.

Application is accordingly rejected.

(A.S.GADKARI, J.)