

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

**CRIMINAL APPLICATION NO.75 OF 2017
(FOR LEAVE TO FILE APPEAL)**

The State of Maharashtra Applicant

versus

Sou.Ranjana Madhukar Karale & Anr. ... Respondents

.....

- Mr.J.P. Yagnik, Advocate for the State/Appellant.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 21st JUNE, 2018.**

P.C. :

1. This is an Application seeking leave to Appeal against the order of acquittal as recorded by the learned Sessions Judge, Kolhapur in Sessions Case No.53/14, thereby acquitting the accused Nos.2 and 3 for the offence punishable u/s 302, 504 r/w 34 of the Indian Penal Code.

2. The prosecution story in brief is as thus :-

The deceased Dagadu, Dadu and Madhukar were three

brothers. It is the prosecution case that when the deceased along with his two daughter-in-laws had gone to cut the grass in the land owned by the family, the accused No.1 Madhukar Karale picked up a quarrel with them for cutting of the grass. Dagadu and his daughter-in-laws were therefore required to return home with empty hands. It is the prosecution case that in the evening of 02/12/2013, at around 09.00 p.m. the accused No.1 Madhukar along with his wife accused No.2 Sou. Ranjana Madhukar Karale, his son accused No.3 Nilesh Madhukar Karale and another son Shivaji (Juvenile) came to the entrance door of the premises in occupation of deceased Dagadu. Madhukar started hurling abusive words and called Dagadu to come out of the house. Parubai, the mother of the accused No.1 and the deceased Dagadu, who was residing with Dagadu, came out of the house. She reasoned Madhukar, accused No.1. But he did not listen. Madhukar was armed with an axe. Ranjana was holding metal pot containing water laced with chilly powder. Nilesh and Shivaji were armed with sticks. When Dagadu came out of the house, accused No.2 Ranjana threw water from the

pot on the face of Dagadu. Madhukar, accused No.1 assaulted Dagadu with Axe. P.W.3 Subhash and P.W.4 Prakash attempted to save their father, but the accused No.3 Nilesh and Shivaji assaulted them with sticks. Accused No.1 Madhukar gave one more blow on the chest of Dagadu. Ranjana inflicted a blow of sickle on the forehead of Dagadu. Parubai was also beaten up with sticks. Dagadu fell down. He was taken in a jeep to hospital of Dr.Attrigre. Thereafter he was brought to the C.P.R. Hospital, Kolhapur, where he was declared dead. Subhash (P.W.3) went to Karveer Police Station and lodged report. On the basis of said report, Crime No.307/13 came to be registered. P.W.13 Sambhaji, API was entrusted with the investigation. At the conclusion of the investigation, the learned trial Judge filed charge-sheet in the Court of the Judicial Magistrate First Class, Kolhapur. Since the case was triable by the learned Sessions Judge, the same came to be committed to the Court of Sessions.

3. The learned Sessions Judge framed the charge at Ex.8. The accused pleaded not guilty and claimed to be tried. The

defence of the accused was that the deceased and his both sons attempted to assault Madhukar, accused No.1, with a sickle. Madhukar snatched away sickle from one of them. Thereupon they thrashed Madhukar with fist and leg blows. It is further their defence that in the said incident, the sickle accidentally hit Dagadu and Dagadu succumbed to the injuries.

4. The learned trial Judge at the conclusion of the trial convicted the accused No.1 for the offence punishable u/s 302 of IPC and sentenced him to suffer imprisonment for life. The learned Trial Judge further convicted the accused Nos.2 and 3 for the offence punishable u/s 325 and 323 r/w 34 of IPC, for voluntarily causing grievous hurt to Subhash and Parubai.
5. Being aggrieved by the acquittal of accused Nos.2 and 3 for the offence punishable u/s 302 of IPC, the State has preferred this Application for seeking Leave to Appeal.
6. The learned Trial Judge found that P.W.3 Subhash and P.W.4 Prakash were the sons of the deceased Dagadu and their

evidence need to be scrutinized carefully. The learned Trial Judge further found that the maxim “Falsus in uno falsus in omnibus” was not applicable in the Indian criminal jurisprudence. The learned Trial Judge upon carefully perusing the evidence found that their evidence insofar as the accused No.1 is concerned, was found to be trustworthy. However, it is found that insofar as the role attributed to the accused Nos.2 and 3 is concerned, contradictions and improvement are in the evidence. In that view of the matter, the learned Trial Judge found that the prosecution has failed to prove the guilt of the accused Nos.2 and 3 for the offence punishable u/s 302 of IPC.

7. The learned Judge has given cogent and sound reasons for acquitting the accused Nos.2 and 3 for the offences punishable u/s 302 of IPC. No perversity is noticed to warrant interference.

8. The Appeal therefore dismissed.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)