

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 252 OF 2016**

Shri Suresh Bansilal Chugh

....Applicant.

Vs.

Shri Vitthal Dattu Waingade & Ors.

....Respondents.

Pankaj Pandey i/by Mithun Mahajan for the Applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 13th MARCH, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr.P.C. for leave to file Appeal against the Judgment and Order dated 29th October, 2013 passed by the learned Judicial Magistrate, First Class, Court No.4, Kolhapur in R.C.C. No. 18 of 2009 thereby, acquitting Respondent Nos. 1 to 3 for the offence punishable under Section 420 r/w 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant.
Perused the record.

3 It is the case of the Complainant that, the father of the Respondents entered into an agreement dated 13th February, 2003 for sale of land admeasuring 6 Ares for valuable consideration.

 That, certain amount was thereafter paid to the father of the Respondents. That in the intervening period, the father of the Respondents expired and thereafter also the Respondents received some consideration towards the sale of the said land by executing an Affidavit in favour of the Applicant. The evidence on record indicates that, the Applicant has failed to prove the fact by leading cogent and convincing evidence that, he in fact had paid the amount of consideration either to the father of the Respondents or thereafter to the Respondents as stated hereinabove. It further appears from record that the agreement between the Applicant and the father of the Respondents was not binding on the Respondents.

4 The Trial Court has recorded a finding that the Applicant though had stated in the complaint that he had been to Police Station for lodging the crime out of the said transaction, in his cross-examination has admitted that in fact, he did not lodge complaint with the police. Thus, from the record the contentions of the Applicant in the absence of cogent and substantial evidence, cannot be

believed.

5 After perusing the record, this Court is of the opinion that the view adopted by the Trial Court is reasonable and probable view in facts and circumstances of the present case.

No case for grant of leave to file Appeal is made out.

6 Application is accordingly rejected.

(A.S. GADKARI, J.)