

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

CRIMINAL APPEAL NO.924 OF 2015

Adinath Shankar Wadkar	.. Appellant
V/s.	
The State of Maharashtra & Ors.	.. Respondents

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Mr.Satyavrat Joshi, Advocate for the Appellant.
Ms.M.H. Mhatgre, APP for Respondent – State.

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**CORAM : S.C. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.**

DATED : FEBRUARY 27, 2018.

P.C. :

We have heard Mr.Joshi appearing in support of this application seeking leave to appeal against the judgment dated 21st August, 2015, in Sessions Case No.30 of 2008, passed by the District Judge & Sessions Judge, Pune.

2 Mr.Joshi submits that the view taken by the Court below has resulted in miscarriage of justice, inasmuch as, for minor discrepancies and some contradictions here and there, the occurrence of the incident has not been denied, nor the participation of the accused therein. It is only the particulars

which could not be brought on record with such clarity, as was demanded by the trial Court. The trial Court should have overlooked these minor omissions and contradictions and, thereafter, accepted the prosecution version and recorded conviction of the accused. That having not been done and the charge being as serious as alleging offences punishable under Sections 307, 324, 326 read with 149 of the Indian Penal Code and, alternatively, under Section 452, 307 read with the above sections of the IPC, we should grant the leave to Appeal.

3 This is an application by the complainant – victim.

4 However, the prosecution could not bring cogent and relevant materials on record to indicate that though the incident took place and following an earlier incident, but, the participation of the accused therein was held to be doubtful. The prosecution examined number of witnesses. The trial Court has noted that all the eight witnesses examined tried to fill in the gaps and very material one in the deposition of P.W.1 Yogesh Baban Wadkar. Yogesh Baban Wadkar, from the inception, did not support the prosecution case. Somewhere in between he supported it, but, by not providing any material particulars. On very material aspects,

his version was found to be doubtful and not cogent enough to bring home the charge. In paragraphs 10 to 13 of the order under challenge, the trial Court has pointed out the glaring discrepancies, the omissions and contradictions in the version of the prosecution. The trial Court has also rightly commented upon the failure of the prosecution to bring the medical evidence. Even though, the injured were referred to Sassoon General Hospital, which is a Government hospital at Pune, still the relevant documents and certificate from that hospital were not forthcoming. In the circumstances, it will not be proper to hold that the prosecution has proved its case beyond reasonable doubt. In fact, the trial Court held that the prosecution has failed to bring home the charge, in the light of the material contradictions in the version of the witnesses and failure to produce even the material evidence. In these circumstances, the order of acquittal does not suffer from any perversity or such serious legal infirmity, warranting interference in our appellate jurisdiction. The leave to appeal is, therefore, refused. Application in that behalf is dismissed.

(PRAKASH D. NAIK, J.) (S.C. DHARMADHIKARI, J.)