

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

CRIMINAL APPLICATION NO.115 OF 2017

State of Maharashtra

.... Applicant

versus

Shivanand @ Nandkumar
Gangadhar Habbu & Anr.

... Respondents

.....

- Mr.J.P. Yagnik, APP for the State/Applicant.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 06th AUGUST, 2018.**

P.C. :

1. The State has filed the leave to Appeal being aggrieved by the Judgment and Order passed by the learned Additional Sessions Judge, Solapur, vide order dated 15/10/2016 in Sessions Case No.49/2014, insofar as acquittal of the accused for the offence punishable under Section 324 and 302 of IPC.
2. The accused were tried for assaulting the deceased Sidharamappa. The offence came to be registered vide Crime

No.242 of 2013 for the offence punishable u/s 324 of IPC. On the death of the deceased, the offence came to be converted to one u/s 302 of IPC. At the conclusion of the trial, the learned Trial Judge has acquitted all the accused for the offence punishable u/s 324 r/w 34 and 302 r/w 108 of IPC. However, the accused No.1 was convicted for the offence punishable under Section 326 and sentenced to suffer simple imprisonment for three months.

3. The learned Trial Judge found that the deceased at the time of incident was 83 years old. The learned Trial Judge found that the evidence on record reveals that the death of the deceased could not be related directly with the assault which was made by the accused No.1. However, found that the injury sustained by the deceased was grievous hurt. The learned Trial Judge found that injury which was sustained by the deceased was on his leg and therefore it can be said that the accused No.1 had caused death of the deceased. The learned Trial Judge found that insofar as the evidence of P.W.4 Shaila Kale, who is

the eyewitness is concerned, her statement was recorded after the incident.

4. No perversity was found to warrant interference with the findings of the learned Trial Judge. Hence the Application for leave to Appeal is rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)