

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 374 OF 2017**

Smt. Aruna Ambadas Jagtap

....Applicant.

Vs.

Balasaheb Namdev Randive & Anr.

....Respondents.

Mr. Ashok Agasti for the Applicant.

Mr. V.V. Gangurde, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 19th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr. PC. for leave to file Appeal against the Judgment and Order dated 10th July, 2017, passed by the learned Judicial Magistrate, First Class, Baramati in R.C.C. No.123/2012, thereby acquitting the Respondent No.1 from the offences punishable under Sections 406 and 420 of the Indian Penal Code.

2 Heard the learned counsel for the Applicant and the learned APP. Perused the record.

3 The Applicant is the first informant.

It is the case of the Applicant that, her father namely Namdev Randive was holding and operating a locker with Pune

District Central Co-operative Bank, Branch Baramati. That, the Respondent was given Power of Attorney by deceased Namdev Randive to operate the said locker. That, on 1st August 2009, Namdev Randive expired and without informing the said fact to the Bank Officers and by using the Power of Attorney given to the Respondent No.1 by her father Namdev Randive, the Respondent No.1 operated the said locker on 28th August 2009 thereby, committed offences punishable under Sections 406 and 420 of the Indian Penal Code.

After completion of the investigation, the police submitted the charge-sheet. The Trial Court framed charge below 'Exhibit-11'. By the impugned Judgment and Order, the Respondent No.1 was acquitted by the Trial Court, as stated here-in-above.

4 The evidence on record indicates that, Mr. Ashok Wable, (PW-2) a Bank Officer, has deposed that, on 28th October 2010, the said locker was operated by Smt. Vithabai, (mother of Applicant and Respondent No.1) and took all the things from the said locker. It has further come on record that, the Applicant has admitted in her cross-examination that, the said locker was opened by Smt. Vithabai along with the Respondent No.1 Mr. Balasaheb Randive and Smt. Ratnamala (sister of the Applicant and the Respondent No.1). The Bank Officer

had permitted Smt. Vithabai to operate the said locker, being legal heir of the deceased Namdev Randive.

5 The prosecution has failed to establish the fact that the Applicant has suffered any wrongful loss due to the operation of the said locker by the Applicant and/or by Smt. Vithabai. As Smt. Vithabai was entitled to operate the said locker being the legal heir of deceased Namdev Randive, no offence under Sections 406 and 420 is made out.

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

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

7 Application is accordingly rejected.

(A.S. GADKARI, J.)