

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

**CRIMINAL APPLICATION NO.425 OF 2017
(FOR LEAVE TO APPEAL)**

Dnyandev Bhagwan Borole	 Applicant
versus	
The State of Maharashtra & Ors.	... Respondents
.....	

- Mr.Vaibhav V. Ugle, Advocate for Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 26th JULY, 2018.**

P.C. :

1. By the present Application the Original Complainant seeks leave to Appeal against the Judgment of the learned Additional Sessions Judge, Pune, dated 17/05/2016 in Sessions Case No.812/13, thereby acquitting the accused for the offence punishable u/s 307, 323, 504, 506 r/w 34 of the Indian Penal Code and u/s 37(1) r/w section 135 of Bombay Police Act and u/s 4 (25) of Arms Act.

2. It is the prosecution case that the accused along with absconding accused had assaulted the complainant with swords and knife with intention to cause his death.
3. The learned Trial Judge found that from the evidence of the complainant it was found that he has changed the version in his cross-examination. He has further found that even the medical evidence was contradictory to the ocular testimony of the P.W.1 complainant Dyandeo Borole. As such the learned Trial Judge found that it was not safe to rest conviction only on the testimony of the complainant. Insofar as the recovery of the weapons alleged to have been used in the crime is concerned, the learned Trial Judge found that the recovery was from a place which was open and accessible to everyone. As such, the learned Trial Judge found that such circumstance cannot strictly support the prosecution case.
4. Thus, it cannot be said that the view taken by the learned Trial Judge is either perverse or impossible to warrant interference. The Application for leave to Appeal is therefore dismissed.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)