

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.401 OF 2016

(For Leave to Appeal – Private)

Raghunath Bajrang Sakpal ... **Applicant**

V/s.

The State of Maharashtra & Ors. ... Respondents

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Mr.Saurabah Oka, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent No.1/State.

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CORAM : A.M.BADAR J.

DATED : 25th SEPTEMBER 2018.

P.C. :

1 This is an application for grant of leave to appeal for
challenging the Judgment and Order dated 06/10/2016 passed by
the learned Judicial Magistrate First Class, Chiplun, District
Ratnagiri acquitting the respondent/accused for the offences
punishable under Sections 420, 468 and 471 read with Section 34
of the Indian Penal Code.

2 None appeared for respondent Nos.2 and 4 despite
service. The learned Additional Public Prosecutor appears for
respondent No.1/State.

3 Heard the learned Counsel appearing for the applicant. He argued that the respondents/accused are acquitted by holding that the prosecuting agency has not investigated the crime properly. The learned trial Court instead of acquitting the respondent/accused ought to have directed for fresh investigation of the subject case. Therefore, the impugned Judgment and Order of acquittal is not appropriate. It is further argued that the property belonging to the applicant could not have been sold without his consent, he being the ex-serviceman.

4 I have considered the submissions so advanced and perused the Judgment and Order of acquittal.

5 The acquittal came to be recorded by considering the fact that the prosecuting agency i.e. State has not adduced any evidence in support of the charge. Thus, it cannot be said that the impugned Judgment and Order of acquittal of the respondents of the offences punishable under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code is perverse, when there is no evidence in support of the charge. The learned trial Court was justified in acquitting the respondents/accused.

6 In this view of the matter, no case of grant of leave is made out. The application is, therefore, rejected.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Gaikwad RD

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