

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APPA] NO.79 OF 2018

[Parasnath s/o Laxman Dubey .vs. State of Maharashtra and others]

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri N.S. Khandewale, Counsel for the applicant,
 Mrs. Nandita Tripathi, APP for respondent no.1-State.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : MARCH 28, 2018.

This is an application filed by the complainant-victim for grant of leave to file the appeal against the acquittal of the respondents-accused for the offence punishable under section 307 of the Penal Code.

On hearing the learned counsel for the parties and on a perusal of the judgment of the trial court, it appears that the trial court has considered the evidence tendered by the prosecution in the right perspective to hold that the accused were entitled to be acquitted for the offence punishable under section 307 of the Penal Code. Though it was the case of the complainant that he was assaulted by the accused on the head, there was no injury on the head of the complainant. The only eyewitness that was examined on behalf of the prosecution had turned hostile. The identification parade was not conducted as per the rules laid down in the Criminal Manual. The investigating officer had admitted in his cross-examination that the accused persons were wearing mask at the time of the incident. The panch witnesses in respect of the recovery had also turned hostile. Though it was the case of the prosecution that the complainant was wearing helmet and he was assaulted on his head by the stumps, the helmet was not seized and it was not proved that the same was

damaged. Considering the aforesaid facts and circumstances on record, the trial court has acquitted the respondents-accused for the offence punishable under section 307 of the Penal Code.

In the circumstances of the case, we are not inclined to grant leave to the complainant to file the appeal. The prayer made by the complainant for grant of leave to file the appeal stands rejected.

JUDGE

JUDGE

Gulande