

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

CRIMINAL APPLICATION (APPA) NO.231/2016
IN
CRIMINAL APPEAL NO. /2016

State of Maharashtra, through Range Forest Officer, Warora, Distt. Chandrapur
 ..Vs..
 Bhangu Parasram Bhukya (dead) and others

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

Court's or Judge's orders

 Ms. S.V. Kolhe, A.P.P. for the applicant / appellant.

CORAM : Z.A. HAQ, J.
DATE : 30.8.2018.

1. For the reasons stated in the application, the appellant is granted leave to prosecute the appeal. The application is **allowed** accordingly.

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2. The State has filed appeal to challenge the judgment passed by the learned Magistrate acquitting the accused No.4 of the charge of violating the provisions of Section 9 punishable under Section 51 of the Wild Life (Protection) Act, 1972 (for short "the Act of 1972"). The State seeks leave to file appeal.

3. According to the prosecution, the accused indulged in killing animals by spreading wire with live power supply and offence was registered against them when they killed a blue-bull using such tactics. The

prosecution mainly relied on the statements which were recorded by the Range Forest Officer. The learned Magistrate, relying on the provisions of Section 50(8) of the Act of 1972 has recorded that the statements recorded by an officer below the rank of Assistant Conservator of Forest and authorized by the State Government are not admissible. The learned A.P.P. has not been able to point out that the considerations by the learned Magistrate on this point are unsustainable.

4. The prosecution has not been able to bring on record any other evidence to prove the guilt of the accused No.4. After examining the matter, I find that the judgment passed by the learned Magistrate is proper and does not suffer from any error which necessitates interference by this Court. Hence, the prayer for grant of leave to file appeal is **rejected**. Consequently, the appeal is **rejected**.

JUDGE