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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.26 OF 2019

The State of Maharashtra	...Applicant
vs.	
Rama Bahadur Chavan & Ors.	...Respondents

Ms P.P.Shinde, APP for the applicant

CORAM : A.S.OKA, &
A.S.GADKARI, JJ.
DATE : JANUARY 16, 2019

P.C.: (PER A.S.GADKARI,J.)

1 This is an application under section 378(3) of
the Code of Criminal Procedure, 1973 for leave to
file appeal against the Judgment and Order dated 19th
January 2016 passed by the learned Special Judge,
Solapur in Sessions Case No.88 of 2015, acquitting
the respondents from the offences punishable under
sections 394, 397, 306 read with section 34 of the
Indian Penal Code.

2 Heard the learned APP and perused the record
including the notes of evidence.

3 The record indicates that prior to conducting
test identification parade, the respondents/original
accused were shown to the witness including P.W.No.6
by the investigating agency. The witness has
identified eight persons including the respondents

in the present case. The trial Court has recorded a finding that the test identification parade conducted during the course of investigation and alleged to have been proved by the P.W.No.6 is not at all reliable.

It is to be noted here that the mobile phone seized from the accused was allegedly owned by a third person who has not been examined by the prosecution. There are material infirmities in the evidence led by the prosecution.

4 After taking into consideration the entire evidence available on 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 which requires no interference by this Court in its appellate jurisdiction.

5 Application is devoid of any merits and is accordingly rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)