

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

**CRIMINAL APPLICATION STAMP NO.1 OF 2018
(For leave to Appeal)**

The State of Maharashtra : Applicant.
Versus
Sampat Ramchandra Garud : Respondent.

Mr. V V Gangurde, APP, for the Applicant/State.

**CORAM : A.S.OKA &
A.S.GADKARI, JJ
DATE : 21st January 2019**

P.C.

1 This is an application under Section 378(3) of the Criminal Procedure Code for leave to file an Appeal against the Judgment and Order dated 07/10/2017 passed by the learned Additional Sessions Judge-1, Thane in Sessions Case No.555 of 2014 acquitting the respondent from the offence punishable under sections 307, 326 r/w 34 of the Indian Penal Code.

2 By the same impugned Judgment and Order, the Trial Court has convicted the respondent for the offence punishable under Section 324 of the Indian Penal Code and instead of sentencing him, he has been released on probation of good behaviour conduct on executing PR bond of Rs.15,000/- with surety in like amount for his good conduct for a period of one year from the date of the impugned judgment.

3 Heard the learned APP appearing for the Applicant/State. Perused the record including the notes of evidence.

4 After perusing the evidence of first informant Ranjana Ramesh Chiplunkar (PW-1) and the Medical Officer Dr.Jafer Imamkha Tadavi (PW-4), it is difficult to accept the case of the prosecution that Sections 326 and/or 307 of the Indian Penal Code are at all applicable to the present case. The injuries suffered by Ranjana Chiplunkar (PW-1) are mainly on her shoulder and on the right arm (posterior surface). In view of the nature of injuries, it is difficult for us to hold that the respondent had an intention to commit murder and/or he attempted to commit murder of Ranjana Chiplunkar (PW-1).

5 The Trial Court has recorded a finding that Section 307 or Section 326 of the Indian Penal Code are not applicable to the present crime and as per the case of the prosecution, the offence under Section 324 of the Indian Penal Code can only be attracted.

6 After perusing the entire evidence available on record, this Court is of the considered opinion that the conviction and sentence of the respondent under Section 324 of the Indian Penal Code imposed by the Trial Court is a probable view in the facts and circumstances of the present case and does require interference at the hands of this Court.

7 We find no merits in the Criminal Application. The Application is accordingly rejected.

[A.S.GADKARI, J]

[A.S.OKA, J]