

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 12 OF 2019**

The State of Maharashtra

.....Applicant

Vs.

Krushnanandan Singh

Chotanprasad Singh & Anr.

....Respondents.

Ms. M.H. Mhatre, APP for the Applicant-State.

None for the Respondents.

**CORAM : A. S. OKA, AND
A. S. GADKARI, JJ.
DATE : 4th JANUARY, 2019.**

P.C.:-

This is an Application for leave to prefer an Appeal under Section 378 (3) of the Code of Criminal Procedure, 1973. The Respondents have been acquitted from the offences punishable under Sections 307 and 323 read with Section 34 of the Indian Penal Code by the learned Additional Sessions Judge-3, Thane, in Sessions Case No. 412 of 2009 by its Judgment and Order dated 17th June, 2017.

2 Heard the learned APP. Perused the record.

3 It is the prosecution case that, on the date and time of incident, the Respondents assaulted Shri. Prashant Suryavanshi (P.W. No. 1) Shri. Dattatraya Karande (P.W. No. 6) and Shri. Sandesh Kadam (P.W. No. 9). Shri. Prashant Suryavanshi, (P.W. No. 1) in

his testimony has stated that, he was assaulted by the companions of Respondent No.1 and at that time Shri. Sandesh Kadam (P.W. No. 9) was also assaulted by fist and kick blows. No injuries on the person of Shri. Sandesh Kadam have been noticed by the Medical Officer.

The injured witnesses have failed to specify and/or clearly identify the assailants and vague and general statements are made by them about the assault. It appears that, the testimony of Shri. Prashant Suryavanshi (P.W. No. 1) is an exaggerated version of the incident. The evidence on record indicates that, vital omissions, detrimental to the interest of the prosecution have been brought on record by the defence. The evidence on record indicates that, it is not sufficient to hold beyond reasonable doubt that, the Respondents are guilty of the offence charged against them.

4 After perusing the entire record, this Court is of the opinion that, the view adopted by the Trial Court is a reasonable and a probable view in the facts and circumstances of the present case.

No case for grant of leave to file an Appeal is made out. Application is accordingly rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)