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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.59 OF 2019

The State of Maharashtra ...Applicant
vs.
Deepak @ Mistri Nago Patil ...Respondent

Ms M.H.Mhatre, APP for the applicant
Mr.Radheshyam N. Gaikwad for the respondent

CORAM : A.S.OKA, &
A.S.GADKARI, JJ.
DATE : FEBRUARY 26, 2019

P.C.:

1 The State Government has sought leave to prefer
appeal by way of present application under section
378 (3) of the Code of Criminal Procedure, 1973
against the Judgment and Order dated 2.8.2017 in
Sessions Case No.262 of 2013 passed by the learned
Additional Sessions Judge, Greater Mumbai acquitting
the respondents from the offence punishable under
sections 307 and 326 of the Indian Penal Code and
under section 37(1) read with section 135 of the
Bombay Police Act, 1951.

2 Heard the learned APP and the learned counsel
for the respondent. Perused the record including
the notes of evidence.

3 There are two injured eye witnesses in the
present crime namely P.W.No.1-Sanjay Laxman Murudkar
and P.W.No.2-Jyoti Sanjay Murudkar. The medical
certificates produced on record and proved by the

Prosecution Witness No.10-Dr.Swati Eknath Panchpinde are contradictory in their own terms. The injuries mentioned in the first certificate did not tally with the injuries mentioned in the second certificate in its totality, i.e the place of injury and its size. P.W.NO.1 Sanjay has suffered injury on his left hand. The injuries mentioned in the Injury Certificate according to us do not attract the offence punishable under section 307 of the IPC. The evidence available on record creates a doubt in the mind of this Court about the entire incident and the injuries suffered by the said injured witness thereto. The prosecution has failed to prove its case against the respondent beyond a reasonable doubt. The trial Court has recorded a finding of acquittal in view of the evidence available on record.

4 On perusal of the entire evidence 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. We find no merit in the present application seeking leave to prefer appeal. Application is accordingly rejected.

(A.S.GADKARI,J.)

(A.S.OKA,J.)