

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL (STATE) NO. 120 OF 2019

ALONGWITH

CRIMINAL APPLICATION NO. 564 OF 2019

IN

APPLICATION FOR LEAVE TO APPEAL (STATE) NO.120 OF 2019

The State of Maharashtra

...Applicant

V/s.

1. Mahanteshwar @ Mahantesh

Chandrakant @ Kantu Patil and Ors.Respondents

Mrs. M.H. Mhatre, APP for the applicant-State.

Mr. Priyal G. Sarda, Advocate for respondents no.1
and 3.

Mr. M.N. Sandhyanshiv, Advocate for respondent
no.4.

**CORAM : B.P. DHARMADHIKARI, &
SANDEEP K. SHINDE, JJ.**

Tuesday, 15th October, 2019.

P.C. :

1. Heard learned APP and learned Counsel for the respondents.

2. The delay of 20 days caused in filing the aforesaid Criminal Application for leave to appeal against the judgment and order of acquittal dated 26th November, 2018 passed by the Sessions Court is condoned.

3. Respondents are already sentenced under Section 307 read with Section 34 of the Indian Penal Code. They have been acquitted under Section 120B thereof. The effort of learned APP is to urge that conspiracy must be presumed because of Section 34 of the Indian Penal Code and evidence of P.W.10 on record.

4. Learned Counsel states that according to prosecution, accused-deceased were also related with Siddeshwar Sugar Factory and because of that a plan was hatched to eliminate deceased. The

conspiracy is attempted to be proved through P.W.10 who claims that he saw parties arriving out of hotel and exchange of currency notes between them.

5. We have gone through the evidence of P.W.10 and also discussion about it as contained in paras- 56 and 59 of the judgment of the trial Court.

6. Statement of P.W.10 under Section 161 Criminal Procedure Code is recorded almost 25 days of the incident. Not only this, he claims to have witnessed Director of Sugar Factory and other accused persons exchanging currency notes and then he made enquiries out of curiosity. During enquiry, he learnt about the plan.

7. The trial Court has found this unbelievable. It is further found that conspiracy could have been hatched in secret inside the hotel instead of in front of that hotel in full public view.

8. We do not find anything wrong with application of mind by the trial Court. A possible view has been taken. No case is made out. Leave is rejected.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)