

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

**CRIMINAL APPLICATION STAMP NO.80 OF 2017
(For leave to Appeal)**

**The State of Maharashtra : Applicant.
Versus
Rishikesh Pawankumar Ghorpade and ors. : Respondents.**

Mr. J P Yagnik, 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 Appeal, against the Judgment and Order dated 13th February 2017 acquitting the respondents from the offence punishable under sections 452, 427, 324, 504 and 506 read with section 34 of the Indian Penal Code and under section 3(1)(10) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under section 7(10)(d) of the Protection of Civil Rights Act, 1955.

2 A minute perusal of the evidence on record indicates that, the testimonies of the prosecution witnesses are full of legal infirmities, and therefore, the prosecution has miserably failed to prove its case beyond reasonable doubt. The material witnesses have failed to identify the accused persons. The roles attributed to the accused by the prosecution witnesses are general in nature. It further appears from the record that it is only because the

first informant belongs to a scheduled caste as contemplated under the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the provisions of the said Act were applied to the present crime.

3 As noted earlier, the evidence on record clearly indicates that, the prosecution has miserably failed to prove the guilt of the respondents beyond reasonable doubt and it is the reason, the Trial Court has given benefit of doubt to them leading to the acquittal of the respondents.

4 In view of above, we find no merits in the application.

5 The application is accordingly rejected.

[A.S.GADKARI, J]

[A.S.OKA, J]