

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

**CRIMINAL APPLICATION NO.298 OF 2018
(For Leave to Appeal (Pvt.))**

**Kamlesh Mahendranath Pande : Applicant.
Versus
The State of Maharashtra and ors. : Respondents.**

**Mr. Shantanu R Phanse for the Applicant.
Mr. V V Gangurde, APP for the Respondent/State.**

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

P.C.

1 This is an Appeal filed under Section 372 of the Criminal Procedure Code against the impugned Judgment and Order dated 3rd May 2018 passed by the learned Additional Sessions Judge-1, Vasai acquitting the respondent Nos.2, 3 and 4 from the offence punishable under sections 147, 148 and section 302 read with section 149 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant and the learned APP for the State. Perused the entire evidence available on record.

3 The respondent Nos.2, 3 and 4 were charged for commission of murder of Mahendranath Pande. The first informant is Kamlesh, the son of the deceased. The record clearly indicates that, the alleged offence took place on 22nd February 2002 at Nalasopara. The respondent No.4 Sanjay Sharma was absconding since then. The respondent No.4 was arrested by the police on 24th February 2015 and thereafter supplementary statements of material

witnesses were recorded by police for establishing the identity of the respondent No.4 and other respondents. The evidence on record indicates that the prosecution has failed to establish beyond reasonable doubt the guilt of the respondent Nos.2, 3 and 4 for commission of murder of Mahendranath Pande. The evidence on record of the material witnesses is full of improvements amounting to material omissions. The predominant link in establishing the fact that the respondent Nos.2, 3 and 4 are the perpetrators of the present crime is missing from the prosecution case.

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

5 There are no merits in the appeal.

6 The appeal is accordingly rejected.

[A.S.GADKARI, J]

[A.S.OKA, J]