

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 808 OF 2018
IN CRIMINAL APPEAL NO. OF 2018

(The State of Maharashtra thr. PSO, PS Gittikhadan, Tahsil & District – Nagpur vs. Indrabahadur
@ Pankaj Gulabsing & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : SUNIL B. SHUKRE &
S.M. MODAK, JJ.
FEBRUARY 04, 2019.**

Heard Shri M.J. Khan, learned APP for the appellant - State and Shri R.K. Tiwari, learned counsel for the respondents.

Upon going through the impugned judgment and the evidence of eye witnesses, we are of the view that an arguable case has been made out by the State and that this is not a case which would squarely fall within the parameters, which govern the exercise of discretion of the Appellate Court, against a finding of innocence and consequent acquittal granted by the trial Court.

According to the learned APP for the State, the view expressed by the trial Court is perverse in the sense that some conclusions made by the trial Court do not logically arise from the facts established on record. This is, of course, has been seriously disputed by the learned counsel for the respondents.

However, considering the nature of the evidence of the eye witnesses, we are of the view that a detailed

examination of the evidence available on record at the second instance is necessary and, therefore, this Appeal needs to be admitted.

CRIMINAL APPEAL NO. _____ OF 2019

Heard.

Admit.

Call for R. & P.

The trial Court is directed to take action necessary under Section 390 of Code of Criminal Procedure.

If the accused remain present before the trial Court in pursuance of this order, the trial Court while exercising the powers under Section 390 of the Code of Criminal Procedure, shall be at liberty to release these respondents on appropriate bail bonds provided, the trial Court is satisfied about the exercise of such discretion in their favour on account of other factors relating to possibility of the respondents in making themselves available before the Court, the registration of the offences against them and such other related factors.

The respondents shall appear before the trial Court, as submitted by the learned counsel for the respondents, on 08.02.2019 at 11.00 AM.

JUDGE

JUDGE

*GS.