

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

CRIMINAL APPLICATION (APPA) NO.512/2021

State of Maharashtra, Police Station Ganeshpeth, Nagpur .vs. Rajendra
Surajbali Mourya and Ors.

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

Court's or Judge's orders.

Mr. T. A. Mirza, A.P.P. for applicant-State.

CORAM : V.M. DESHPANDE AND AMIT B. BORKAR, JJ.
DATED : SEPTEMBER 20, 2021

This is an application filed on behalf of the prosecution seeking leave to file appeal challenging judgment and order of acquittal passed by learned Sessions Judge-9, Nagpur in Sessions Trial No.405/2017.

Submission of learned A.P.P. is that the learned Judge erroneously acquitted the non applicants of the offence punishable under Section 302 of the Indian Penal Code though he has convicted them for the offence punishable under Sections 143, 148 and 324 of the Indian Penal Code. He has invited our attention to paragraph 36 of the judgment.

After hearing learned A.P.P. and after going through the judgment and order of acquittal, acquitting non applicants of the offence punishable under Section 302 of the Indian Penal Code, we are of the view that a relook is necessary in the matter. The learned A.P.P. has already submitted that the non applicants have already

filed Criminal Appeal No.195/2021 before the learned Single Judge and it is admitted on 05.05.2021.

In view of above, the application is allowed. Leave is granted to the State to challenge the judgment and order of acquittal passed by learned Sessions Judge-9, Nagpur in Sessions Trial No.405/2017.

Since the non applicants have already filed appeal before this Court and they are prosecuting their appeal, there is no necessity to take action under Section 390 of the Code of Criminal Procedure.

The application is disposed of.

CRIMINAL APPEAL NO. /2021

Heard.

ADMIT.

JUDGE

JUDGE