

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.152 OF 2018

The State of Maharashtra
Through the P.S.O. Police Station,
Wadhwana, Tq. Udgir, Dist. Latur

.. Applicant

Versus

Taterao s/o Ramchandra Mule
Age: 37 years, Occu.: Agril.,
R/o. Sukani, Tq. Udgir,
Dist. Latur.

.. Respondent

...
Mr. R. D. Sanap, APP for the applicant – State.

...
**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 9th June, 2023

ORDER :- (Per Smt. Vibha Kankanwadi, J.)

. Present application has been filed under Section 378(1)(b) of the Code of Criminal Procedure seeking leave to file an appeal challenging the judgment and order dated 17.04.2018 passed by the learned Additional Sessions Judge, Udgir, Dist. Latur in Sessions Case No.03 of 2012; thereby acquitting the respondent from the offences punishable under Sections 307 and 504 of Indian Penal Code.

2. Heard learned APP Mr. R. D. Sanap for the applicant – State. With the able assistance of learned APP, we have gone through the record, which

was before the learned Trial Judge.

3. Perusal of the evidence led by the prosecution would show that in order to prove the incident, informant, his wife and his servant Balaji have been examined. Admittedly, there was dispute on account of common bandh between accused and informant. Incident is stated to have been taken place around 9.00 a.m. and it is stated that the accused had assaulted informant with *Katti* i.e. sharp weapon to his head, forehead and shoulder. The learned Trial Judge has considered the testimony of P.W.6 Dr. Omprakash Kadam, who is the medical officer, who has examined the informant. P.W.6 – Dr. Omprakash Kadam has noted only one injury which was in the nature of cut incised wound on the frontal region. When as per the informant three injuries to three limbs were caused, it would have been more blows, but testimony of P.W.6 would show that it was only one blow. The injury certificate revealed the information that was given that the injury was by axe and while taking the history, the patient was conscious. This discrepancy has been considered. The exaggeration and omissions in the testimony of P.W.1, P.W.3 and P.W.4 have been considered by the learned Trial Judge. Taking into consideration the relationship between the witnesses, it has been held that P.W.1 and P.W.4 are the interested witnesses. With the background of enmity, the inferences drawn by the learned Trial Judge appear to be justified. Therefore, taking into consideration the

detailed reasons those have been given by the learned Trial Judge, we do not find any perversity. No case is made out for grant of permission. The application stands dismissed.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm