



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 6 OF 2023

THE STATE OF MAHARASHTRA
VERSUS
TUKARAM SHIVAJI PATIL AND OTHERS

...
Mr. R.D. Raut, APP for Appellant/State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 03rd SEPTEMBER, 2024

PER COURT :

1. The State has filed this appeal under Section 378(1)(b) of Code of Criminal Procedure, seeking leave to file appeal against judgment and order of acquittal dated 15/10/2022, passed by learned Joint Judicial Magistrate, First Class, Bhadgaon, Dist. Jalgaon, in R.C.C. No.40/2022.

2. Prosecution case is that on 28/06/2017, at 10:00 a.m. informant Pramilabai Gokul Patil and her son Sharad Gokul Patil, were working in their agricultural field Gut No.222/2. At about 11:00 a.m. accused Tukaram Shivaji Patil came in their agricultural field with Tractor bearing No.MH-19-P-3428 with Tiller, along with accused Shivaji Namdeo Patil and Aba alias Devidas Shivaji Patil, and started tiller work by Tractor on Maize crop. Informant and her son tried to stop the Tractor by standing in front of it. All the accused came down from the Tractor and started abusing and assaulting informant and her son with fist blows. Accused Tukaram

Shivaji Patil assaulted informant's son Sharad with wooden stick. Accused threatened and asked informant and her son to vacate the land, otherwise they would amputate the limbs. On the basis of FIR lodged by informant C.R. No.78/2018 was registered with Bhadgaon Police Station for offence punishable under Sections 143, 147, 148, 427, 323, 504, 506 of I.P.C. on the same day. After completion of investigation, charge-sheet was filed. Trial Court recorded plea of accused. They pleaded not guilty. Before the Trial Court 11 witnesses were examined by the prosecution, out of which 03 witness have turned hostile. Evidence of informant, her son and other witnesses does not appear to be sufficient to warrant conviction in the present matter. Nothing is brought on record to show that ingredients of Section 427 are made out by prosecution.

3. Trial Court has assigned proper reasons while acquitting accused persons. View taken by the trial Court is possible view, which is not liable to be interfered in exercise of jurisdiction under Section 378 of Cr.P.C. Application being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)