



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 62 OF 2019

The State Of Maharashtra
Through Police Station Officer, Bhingar Camp,
Ahmednagar. Dist. Ahmednagar.

...Applicant

VERSUS

Ravi Bhimraj Bhor,
Age: 26 years, Occu.: Business,
R/o. Nagapur, MIDC,
Tal. Nagar, Dist. Ahmednagar

...Respondent

...

Mr. P. P. Dawalkar, APP for Appellant
Mr. T. M. Tandale, Advocate for Respondents

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 20, 2025
PRONOUNCED ON: NOVEMBER 24, 2025

JUDGMENT :

1. As State is desirous of challenging the judgment and order of acquittal dated 21.09.2017 passed by learned Additional Session Judge, Ahmednagar in Criminal Appeal No. 77/2011 acquitting the accused for offence under section 379, 353 and 506 of Indian Penal Code, instant leave is filed.

2. In nutshell, case in trial Court is as under.

On 17.11.2009, complainant along with other revenue officials intercepted truck bearing no. MH-16-Q-7894 at Nyaynagar, near DSP Chowk, Ahmednagar. On inspection, it was noticed that sand was being

loaded and transported and when inquiry about permit was made, it is alleged that the truck driver abandoned the truck and fled. After 10 minutes, it is alleged that one person came near the truck, manhandled one Vishwas Adhav, forced his entry in the truck and issued threats to inflict injury and fled with the truck. This incidence was reported with police resulting into registration of crime. After investigation, respondent was duly charge-sheeted and tried by RCC No. 123/2010 for offence under section 379, 353, 323, 506 read with Section 34 of the Indian Penal Code (IPC). In support of its case, prosecution adduced evidence of PW 1 spot panch Santosh, PW2 complainant Sharad, PW 3 and 4 were examined as eye witnesses and PW 5 is Investigating Officer. After appreciating the oral and documentary evidence, learned JMFC, Court Room No. 4 was pleased to convict accused for offence under section 379, 353 and 506 of IPC and also imposed fine.

3. Challenge was taken to the above order of conviction by filing Criminal Appeal no. 77/2011 before Court of Sessions and learned Additional Sessions Judge heard both sides and was pleased to allow appeal by acquitting accused from all charges.

Dissatisfied by the same, now State is seeking leave to question the judgment and order of acquittal passed by learned Additional Sessions Judge dated 21.09.2017.

4. Learned APP would apprise this Court about above factual background resulting into registration of crime. He pointed out that case of prosecution was proved beyond reasonable doubt as, according to him, evidence of complainant and two other officials, who are in the company of accused, have narrated whatever happened on that day and their testimonies have remained unshaken and intact. That, there was nothing adverse brought in their cross to disbelieve their version. According to him, in spite of so, learned First Appellate Court failed to appreciate their testimonies and erred in acquitting the accused only on the count that TI parade was not conducted. However, according to him, complainant had identified accused in the Court and, therefore, there being good case on merit, he urges for leave to file appeal.

5. Supporting the judgment and order of acquittal, learned Counsel for original accused would submit that prosecution has miserably failed to prove charges beyond reasonable doubt. He pointed out that, admittedly driver had fled and abandoned the truck. Then, another person allegedly came and took away the truck claiming him to be the owner but according to him, there is nothing to demonstrate that said person was indeed owner of the truck. He pointed out that, neither truck nor the sand in it was seized by the prosecution. According to him, said person being unknown to the witnesses, TI parade was necessary but the same not been

conducted. It is his submission that learned trial Court rightly held that charges are not proved and thus, according to him, there being no merits, leave is to be refused.

6. Perused record. Case of prosecution in trial Court is rested on evidence of PW 2, two revenue officials, who allegedly accompanying complainant i.e. PW 3 and 4, in support of occurrence, spot panch PW 1 is also examined. PW 5 seems to be the then investigating officer.

7. On considering the case of prosecution and on going through the impugned judgment, it appears that truck lodged with sand was noticed by complainant and, therefore, when inquiry was made with the person behind the wheels of the truck, it is alleged that said driver fled. It is further stated that after passage of time i.e. after about 10 minutes, another person came there, he allegedly forcibly took away the truck after issuing threats and intimidating complainant. There are allegations of manhandling complainant. However, none of the witnesses have given description of the person who allegedly did above act. When the person was unknown to the witnesses, it was expected of investigating officer to conduct TI parade. However, apparently, this crucial exercise has not been undertaken here.

8. Another surprising part, which comes to notice of this Court is that, though complainant claims that illegal sand was being transported, nor

truck or sand in it is seized. Therefore, on both counts, case of prosecution is rendered weak. Therefore, no fault can be found on the part of Trial Judge in disbelieving case of prosecution. No case being made out on merit, application is required to be dismissed. Hence, I proceed to pass following order:

ORDER

- (i) Leave is refused.
- (ii) Application for leave to appeal filed by State stands rejected.

(ABHAY S. WAGHWASE, J.)

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