

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO.240 OF 2025

Suresh Vithu Mokal
V/S
State of Maharashtra

....Applicant

....Respondent

Mr. Tanmay R. Vispute, appointed through Legal Aid Committee *for the Applicant*.

Mr. Kiran C. Shinde, APP *for Respondent/State*.

CORAM : SANDEEP V. MARNE, J.
DATE : 2 DECEMBER 2025.

P.C.:

1. The Application is filed seeking leave to file Appeal against acquittal order dated 26 August 2025 passed by the learned Additional Sessions Judge, Panvel, Raigad. By the impugned order, the accused is acquitted of offences punishable under Sections 504 and 506 read with Section 34 of the Indian Penal Code, 1860 and Section 92(a) of the Rights of Persons with Disabilities Act, 2016.

2. I have heard Mr. Vispute, the learned counsel appearing for the Applicant. I have considered the submissions canvassed by him. I have gone through the findings recorded by the learned Additional Sessions Judge in the acquittal order. I have also gone through the notes of evidence placed alongwith the Application.

3. After going through the notes of evidence it appears that the Applicant has given express admissions in the cross-examination that most of the statements made by him during the course of his examination-in-chief are not reflected in the FIR/police statement. The learned Sessions Judge has considered this discrepancy and recorded a finding that the Applicant has improved upon his case. It appears that the Applicant had relied upon alleged video recorded on mobile phone. However, requisite certificate under Section 65-B of the Indian Evidence Act, 1872 was not filed alongwith the said recording. Furthermore, hash value of the video contained in the pen-drive and mobile was not drawn. The learned Sessions Judge has considered all these aspects and has passed an order of acquittal. It is apposite to reproduce findings recorded by the learned Sessions Judge in paragraphs 16,17 and 18 of the acquittal order.

“16. According to PW1 both accused have said that "लंगड्या तू अपंग आहेस म्हणून तुला सोडतो, नाहीतर तुला इथे मारला असता". However, this statement does not find place in FIR and application Exh.P-20/PW1. There appears to be marked improvement in the deposition. Further it is difficult to accept that both accused had uttered the same words at the same time. It has come in the evidence of Kavish PW2 that, accused persons had threatened informant that, "लंगड्या तुला व तुझ्या सोबतच्या भैयांना मारू" and it has come in the evidence of Arif PW4 that, accused No.1 said that, "सुरेश मोकल यांच्यासोबत भैया लोकांना देखील मारेन". However, statement "तुझ्या सोबतच्या भैयांना मारू" does not find place in the evidence of informant.

On this point testimony of informant is different from testimony of PW2 and PW4. There is material discrepancy in the evidence.

17. Kavish PW2 has deposed that, he recorded the incident in his mobile phone. The video was given to the Investigating officer in Pendrive MO-1. It has come in the cross-examination that, hash value of video contained in Pendrive and Mobile was not drawn. He further admitted that, in the said video there is no conversation about "लंगड्या तुलापण मारीन व तुझ्या सोबतच्या भैयांना पण मारिन". Certificate required under Section 65-B of Indian Evidence Act is not produced. Hence, the contents of the video recording are not proved as per law.

18. The allegation regarding hurling abuses is vague and general. It is not proved by the prosecution that accused insulted the informant with intent to provoke breach of public peace. Mere use of abusive language or frightful words uttered by the person would not by itself attract section 504 unless it exhibits an intentional insult and provide cause for provocation. The emphasis of 506 is on the 'intention' to cause an alarm, but in the present case, no such intention is explicit. The very foundation of the case is not proved by the prosecution. Moreover, occurrence of incident is not proved. There is no evidence on record to hold that accused persons had intentionally insulted or intimidated with intent to humiliate informant.”

4. After going through the evidence on record, I do not find any element of perversity in the above findings recorded by the learned Sessions Judge. In absence of the findings recorded in the acquittal order suffering from the vice of perversity, no case is made out for grant of leave to file Appeal against the acquittal order. In the facts and circumstances of the present case, granting leave to file Appeal would be an exercise in futility.

5. Accordingly, Leave Application is rejected.

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signed by
SUDARSHAN
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(SANDEEP V. MARNE, J.)