17. In this view of the matter this Court is of the opinion that the charge levelled against the accused was not duly proved. The view taken by the trial Court and the First Appellate Court is not based on proper appreciation of evidence and is unsustainable in law. In the result Revision Application needs to be allowed. Hence, the following order :-

(i) Criminal Revision Application No. 52 of 2011 is allowed.

(ii) Impugned judgment and order passed by the learned Chief Judicial Magistrate, Bhandara in Regular Criminal Case No. 228 of 2005 and judgment and order passed by the learned Sessions Judge, Bhandara in Criminal Appeal No. 23 of 2009 dated 17-02-2011 are quashed and set aside.

(iii) In consequence thereof applicant-accused is acquitted of the offence under Section 14-A punishable under Section 16(1-C) and 16(1)(d) of the Prevention of Food Adulteration Act.

(iv) Bail bonds of the applicant-accused stand cancelled.

(v) In the circumstances of the case no order as to costs.

(vi) Rule is made absolute in the aforesaid terms.

***Result*:-** Criminal Revision Application allowed.

ABC 2017 (I) 35 BOM

ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(B.P. Dharmadhikari & Kum. Indira Jain, JJ.)

Criminal Appeal No. 448 of 2002 And Criminal Appeal No. 619 of 2002

Decided on 9 January, 2017

Nagpur Bench

SHIVAJI LAXMAN JAVARKAR & ORS. ***- Petitioner(s).***

Versus

STATE OF MAHARASHTRA ***- Respondent(s).***

Law Covered*:-** ***(A) Indian Penal Code, 1860 — Sections 323, 324 & 325 — Criminal Trial — Counter case — Snatching of weapon

by defence witnesses — accepted by prosecution — attempt to create confusion about the exact spot — Held, creates serious doubt about the credibility of the prosecution witnesses & their story— the prosecution has failed to bring on record against the appellants, the cogent and consistent material to enable us to hold them guilty or sustain their conviction — Acquittal. (Para 29 & 31)

(B) Code of Criminal Procedure, 1973 — Section 161 — Statement under — recording of — Delay in — delay not supported by medical officer —fatal to prosecution. (Para 29)

(C) Indian Evidence Act, 1872 — Section 3— Relevant fact — Spot of incident — Deposition of injured eye witnesses — not qua the true spot — Attempt by witnesses to mislead the adjudication — Appreciation of evidence — Held, it not necessary to delve into their individual depositions. (Para 29)

(D) Code of Criminal Procedure, 1973 — Section 161 —Statement under — Delay in — Cross case — Held, statements were definitely after their implication in counter case by opposite party. (Para 30)

(E) Criminal Jurisprudence — Material facts — Suppression by the eyewitnesses & complainant — Held, narration of actual events or individual role of the accused persons by them becomes immaterial. (Para 31)

(F) Cross Case — Investigation of — investigating agency — Duty of — Held, after a group war & causality therein, the other members will like to go scot-free — They may also help each other to defeat law — It is crime against society and at stake is law and order — Hence, prosecution could have attempted to project and deal with individual member of rival groups as per their contribution to crime. (Para 32)

Law of relief:- *(i) Non supporting of delay, in recording the statement u/s 161, CrPC, by medical officer is fatal to prosecution.*

(ii) In case of suppression of material facts by the eyewitnesses & complainant, narration of actual events or individual role of the accused persons by them becomes immaterial.

Held:- Counter cases by both the groups against each other in relation to very same incident, prosecution itself accepting the snatching of weapons from the prosecution witnesses and attempt to create confusion about the exact spot all create serious doubt about the credibility of the prosecution witnesses and their story. There has been unreasonable delay in recording of the S.161 Cr. P.C. statements

of important prosecution witnesses. The deposition of PW-13 - Doctor Khade does not support this delay. We do not find it necessary to dwell upon the simple or grievous nature of those injuries, in present matter. However, when the deposition of injured eye witnesses is not qua the true spot and there is attempt by them to mislead the adjudication, We do not find it necessary to delve into their individual depositions. (Para 29)

It cannot be forgotten that they were accused for attack by them on Shivaji and others i.e. the group of present appellants. Their Section 161 statements were definitely after their implication in counter case by Shivaji. (Para 30)

Once we find that the eyewitnesses have suppressed the correct genesis, narration of actual events or individual role of the accused persons by them becomes immaterial. The respective Counsel have argued at length about the availability or absence of right of private defence, its extent & scope. APP has urged that it can never be claimed in disputes concerning the right of way and could not have been resorted to in a dispute over right of way. In the light of our discussion supra, we are not inclined to embark upon the exercise to consider niceties of this argument. We are satisfied that the prosecution has failed to bring on record against the appellants, the cogent and consistent material to enable us to hold them guilty or sustain their conviction. (Para 31)

Whether in such a group clash, the State Government has to remain satisfied by citing participants therein as witnesses against each other and then, permit them not to cooperate by causing the delay in initial statements or by attempting to mislead the investigation or the "Trial"; is the moot issue. After such a group war and causality therein, the other members will like to go scot-free. They may also help each other to defeat law. It is crime against society and at stake is law and order. Hence, prosecution could have attempted to project and deal with individual member of rival groups as contributing to death of Ratan and injuries to each individual. After recording of the evidence in both the Sessions Trials and hearing of the arguments, the learned APP could have made such a request in the alternative, at least, in these peculiar facts. However, as we have not heard the respective Counsel at length on desirability of adopting such a course, we refrain from recording any binding observations. (Para 32)

Counsel:- ***For Petitioner(s):*** *Shri A.M. Ghare, Advocate.*

For Respondent(s): ***Shri*** *R.S. Nayak, APP.*

Cases Referred:-

Bhagwati Prasad v. State of M.P., (2010) 1 SCC 697 : AIR 2010 SC 349. (Para 28)

JUDGMENT

B.P. DHARMADHIKARI, J.: - Accused No. 1 - Shivaji, Accused No. 5 - Anand, Accused No. 17 - Haribhau, Accused No. 18 - Vasanta and Accused No. 19 - Prakash are before this Court Criminal Appeal No. 448 of 2002, assailing their conviction by the Additional Sessions Judge, Akola on 23.07.2002 in Sessions Trial Case No. 54 of 1996. Criminal Appeal No. 619 of 2002 filed by the State challenged acquittal of remaining 20 accused (i.e. accused Nos. 2, 3, 4, 6 to 16 & 20 to 25) and also sought enhancement of punishment inflicted upon the convicted accused persons. On 13.12.2002, this Court refused to grant leave to assail the acquittal and entertained State Appeal only for enhancing the punishment of the convicted accused. Before proceeding further, it will be proper to note down how these convicted accused persons are punished by the Trial Court :

2. Accused No. 1 - Shivaji is held guilty for cutting of left ear pinna-upper part of PW-4 - Jagdeo by giving the axe blow under Section 324 of the Indian Penal Code.

3. Accused No. 5 - Anand is held guilty for death of Ratan by delivering a stick blow on his head without intention to kill but with the knowledge. For this RI of ten years and fine of Rs. 5000/- or in default to pay it, R.I. of one year is ordered. He is also found to have inflicted injury on head of PW-7 - Ramesh & PW-6 - Vinayak and for fracturing hand of PW-10 - Anil. Hence, punishment of R.I. for two years under Section 324 and of R.I. for three years under 325 of IPC, with fine of Rs. 1000/- each or in default, further R.I. for two months each, is inflicted on him.

4. Accused No. 17 - Haribhau is punished under S. 323 of the IPC for beating Ratan with stick and let free on imprisonment already undergone with fine of Rs. 500/- or in default, further R.I. one month.

5. Accused No. 18 - Vasanta fractured right hand of PW-5 - Manik and committed offence punishable under S. 325 IPC and R.I. for three years with fine of Rs. 1000/- or in default, further R.I. two months, is inflicted on him.

6. Accused No. 19 - Prakash is found responsible for incise wound on leg of PW-4 - Jagdeo and around arm-pit of deceased Ratan and convicted under Section 324 IPC with R.I. for two years with fine of Rs. 1000/- or in default, further R.I. two months.

7. The respective counsel for the appellants i.e. for the accused as also for the State have taken us through the material on record to advance their pleas. As the appeal is against conviction as also for enhancement of the punishments of the convicted accused, were elaborate in their efforts. Their main contentions briefly summarized are as under :

8. Advocate A.M. Ghare for the appellant accused persons in both the matters has argued that the prosecution has failed to establish the guilt of any of the appellants beyond reasonable doubt. The Trial Court has evolved its own story and has considered an entirely different site as spot of incident. This has materially prejudiced its application of mind and lead it to erroneously hold the appellants as aggressors. When there were counter or cross complaints in relation to very same episode, genesis of the crime assumed significance. Here the controversy revolved round the right of way and hence, the spot ought to have been determined with specific attention to the prosecution story. The use of axes by the group of complainants, seizure from them of such axes demonstrated that the complainants were the aggressors. Number of accused in rival cases is not synonymous with the spirit of aggression. When the investigating officer found several persons falsely named as accused, the number of actual persons constituting the alleged unlawful assembly needed to be calculated after excluding the number of the acquitted accused persons. Thus, to oppose the 5 convicted accused, there were 16 persons on complainant's side. He adds that the plea of self defence of the convicted accused was in the alternative and trial court should have evaluated it only after holding that the prosecution succeeded in proving its case.

9. Learned APP advocate Nayak has urged that the spot panchnama itself speaks of the two spots and the trial court has discussed the relevant material to conclude correctly that the spot where blood was seen, was the real spot. Oral evidence has been then appreciated to gather that the appellants were the aggressors. Weapons have also been recovered from them. Not only their presence in large number but also grave injuries inflicted by them

upon the complainant party have been noted to conclude that there was no fault on part of the injured witnesses or the deceased Ratan. Very minor injuries suffered by the appellants also supports the hypothesis of their guilt. The trial court has followed the right procedure as prescribed by the Hon'ble Apex court to adjudicate counter or cross cases of such nature. The injuries actually sustained by the injured could not have been, in such an incident, used as a measure relevant for adjudicating the nature of offence or penalty. He adds that the loss of an ear-pinna due to axe blow can not be viewed as a grievous hurt only.

10. To buttress his submissions, he has relied upon various judgments. We will refer to the same in the course of this judgment, if and as and when necessary.

11. Here as the controversy centers around the right of way, the spot of occurrence assumes importance. Trial Court holds the place where blood was found as the spot and negates the submission of the accused that place adjacent to field of accused No. 1 Shivaji by the side of Takli-Nandkhed way where the thorny bushes on the boundary of field were uprooted was the spot. There was a counter or cross complaint filed by these appellants against the injured eye witnesses in relation to the very same incident. PW-11 - Daryav Mundhare, head constable has deposed that complaint filed by accused No. 1 - Shivaji was first in point of time and it was registered as crime No. 235 of 1995 while complaint filed by their rivals was crime No. 236 of 1995. Both these offences are investigated by the very same investigating officer PW-14 - PSI Satish Deshmukh. Sessions Trial 232 of 1996 in crime number 235 of 1995 for offences under S. 148, 307&149 of IPC was decided first and the accused therein were acquitted. Those accused persons are the eye witnesses relied upon by the trial court in this trial against these appellants.

12. Deposition of PW-14 reveals that he had searched house of PW-5 Manik (herein) and seized two sticks and one iron pipe. From house of the accused in counter case Sanjay Shirsat he seized a big fish shaped knife and a button knife. 2 axes were seized from the house of accused 17 Harishchandra and produced in that case. This I.O. states that investigation in counter case revealed that these 2 axes were snatched from PW-4 Jagdeo and PW-6 - Vinayak in present matter. It appears that weapons in counter case i.e. articles 1 & 2 axes, bamboo sticks Article Nos. 9, 10, 11, iron pipe Article No. 12 and

Article No. 13 axe from the counter case were shown to him and he identified the same as weapons in S.T. No. 232 of 1996.

13. Thus, in this situation any party who wants to defeat the prosecution or show its innocence is bound to create confusion about the spot itself. Trial Court therefore ought to have gathered the spot first from the prosecution case and then proceeded to resolve controversy, if any, regarding it. The spot panchnama, witnesses on it and IO PW-14 - Satish, therefore, are the most important witnesses.

14. Before going to the deposition at Exh. 102 of PW-1 Bhalchandra Shirsat who proved that panchnama Exh. 103, it is to be noted that one Suresh Rajaram Shirsat has shown the spot of occurrence to the police. PW-1 deposes that field of Shivaji (accused 1) was the spot of occurrence. He makes distinction between this spot of occurrence and the spot/ place about 200 feet away therefrom, where the blood was seen. Exh. 103 also marks this distinction between the spot of occurrence and place in fallow land at a distance of 200 feet therefrom where 4 pools of blood were noticed. This spot panchnama was never in dispute and no questions to the contrary are put to PW-1.

15. PW-14 - Satish Deshmukh, in paragraphs 2 & 3 deposes that the at spot a way was created by removing thorny bushes to pass through a field on Takli-Nandkhed way. He came across three blood pools at a distance of 200 feet from this point where the way was created.

16. It will be appropriate at this stage to peruse the depositions of the injured witnesses. Ratan injured on 21.10.1995 died on next day.

17. PW-4 - Jagdeo, on 05.02.2002, deposes that he was proceeding to his field for spraying the insecticides. When he reached near field of accused 17 Haribhau Jawarkar, accused before the Court were present there with weapons and they inquired from him as to who had uprooted the thorny fencing. As per his narration the assault then commenced. Thus, as per this witness spot is near field of accused 17. In cross-examination, he deposed that field of accused No. 1 - Shivaji is on east of village. He maintains that foot way and cart way to his field is from inside the field of accused 1 Shivaji. Thus he does not speak of attack on him in any fallow land or fallow field or the gram panchayat land. Instead of accepting the spot to be near field of Shivaji, he points out the field of accused No. 17 - Haribhau.

18. PW-5 No. - Manikrao, also on 05.02.2002, states that he was returning from his field with deceased Ratan and incident took place near field of Laxman Jawarkar. He also maintains that there is a way from inside the field of accused No. 1 - Shivaji. Paragraph 10 (cross-exam) shows that accused No. -17 - Haribahu was stating that there was no way from inside the field of Shivaji and was not permitting PW-4 - Jagdeo to go from inside. Thus, the quarrel began which lead to assault at same place. In police report dated 21.10.1995 at Exh. 118, he does not describe spot specifically. He was in hospital for 45 days and his S. 161 statement was recorded on 05.12.1995 when he was already accused in counter case.

19. PW-6 - Vinayak has deposed on 06.02.2002 that a day earlier i.e. on 20.10.1995, he was returning back from his field and entered the field of Laxman Jawarkar as there was mud on regular way. Accused No. 19 - Prakash had then threatened him for using the field as a way. About the actual incident on next day, as he heard noise near field of Laxman, he hurried and found accused persons in a fallow land. He then speaks of assault in that fallow land. In cross-examination, he maintains the stand that there is way from inside the field of accused No. 1 - Shivaji. He, therefore, shifts the venue of assault itself away from the field either of Shivaji or Haribhau and to a fallow land. He was in hospital for 16 days and his statement is taken on 05.11.1995.

20. PW-7 - Ramesh Shirsat on 06.02.2002 speaks of fallow land as spot and adds that said fallow land is adjoining the field of Laxman Jawarkar. His cross-exam reveals that field of accused No. 1 - Shivaji is distinct from field of Laxman. His statement is recorded on 29.10.1995.

21. PW-8 - Pralhad has deposed on 07.02.2002 that to watch the incident, he went near field of Laxman Jawarkar. He does not say that assault was going on in field of Laxman or in fallow land. He states that it occurred near field of Laxman to the east of slum area. Distance between that spot and slum area is about 250 feet. After slum there is fallow land and adjoining it, is the field of Laxman Jawarkar.

22. PW No. 9 - Gautam Sirsat deposes on 07.02.2002 that he heard shouts for help from the direction of field of Laxman Jawarkar and he went there. His deposition, therefore, does not mention the actual spot of occurrence. His cross-exam brings on record fact that

there are other fields in the vicinity & no other person from those fields came there. Accused No. 1 - Shivaji, Accused No. 17 - Haribhau and others were also injured in the attack.

23. PW No. 10 - Anil deposed that on hearing the news he went near the field of Laxman and saw injured lying there. He denied that they had entered the field of Laxman and created a way. His statement under S. 161 Cr. P.C. is dated 30.10.1995.

24. Thus, none of these prosecution witnesses support theory of two spots of assault. They do not point out two spots separated by distance of 200 to 250 feet from each other. Avoidance of PW-5 - Manik to fix the spot in his report speaks volumes. PW-4 - Jagdeo who entered the witness box first in point of time clearly speaks of a place near field of accused No. 17 - Haribhau as the spot. Later improvements therein can be appreciated date wise as the recording of oral evidence progressed in the trial. Prosecution does not speak of any fallow land as the "spot" of occurrence. On the contrary, place where three or four pools of blood were found is separately taken note of in spot panchnama. Witness who has shown the spot to the investigating officer also does not show the "pools of blood" as place where the attack occurred. Extent of injuries on record also is not such as to support finding of three or four pools of blood. Material on record like evidence of PW-6 and spot panchnama Exh. 103 shows that there were rains and the path way was muddy. In this situation finding of blood at spot pointed out by the prosecution may have been difficult. It may have been washed away also and accumulated at few places. It is not possible to recognize the place where blood pools were found as spot of assault beyond any shadow of doubt. The injured eyewitnesses deposing before the trial court were accused in a cross or counter case instituted against them. They were, therefore, interested in adopting a low profile and projecting the appellants as aggressors. It was not in their interest to agree to the spot of occurrence in spot panchnama. We, therefore, find the discussion on spot of occurrence by the learned Trial Court and its finding that the appellants appear to be the aggressors which is eclipsed by that discussion, is unsustainable. We accept the boundary of and field of accused No. 1 - Shivaji as described in spot panchnama Exh. 103 as the spot of occurrence.

25. Burden on prosecution to point out how the four blood pools got created at a distance of 200 or 250 feet. 25 persons of one

group and 16 of other group will not meet accidentally with weapons or at a neutral place like fallow land. When the spot proposed by the prosecution is accepted, it appears that because of uprooting of the thorny bushes planted on boundary of Shivaji's field, the accused persons may have gone there to protect that field and crop. The accused persons will not prepare a "gap or way" (khinda-Marathi) in fencing to pass through. Investigation has revealed that land within the field of Shivaji appear to be pressed and formed spot of incident. On previous evening, one of them was threatened for walking through the field PW-6 - Vinayak has deposed on on 20.10.1995, he entered the field of Laxman Jawarkar due to mud on regular way and hence accused No. 19 - Prakash threatened him. If this Vinayak or his group had uprooted the bushes and cleared the fencing, they would have been carrying the axes, pipes, knifes & sticks. We have already taken note of deposition of the investigating officer (PW-14) show that weapons were also used in counter case in an attempt to drive home the charge against the prosecution witnesses who were accused therein. If appellants herein got knowledge of said act or then wanted to prohibit the user of agricultural field of Shivaji as a "way", they may also have gone there fully prepared.

26. Charge sheet Exh. 153 filed on complaint of Shivaji i.e. accused No. 1 herein, is against 16 persons as accused. Spot panchnama in present matter is at Ex. 103. Suresh Rajaram Shirsat who has shown that spot immediately after the incident is accused 16 in Exh. 153. It mentions the event on 20.10.1995 and states that PW-4 - Jagdeo (accused No. 8 in Exh.153) created a gap and hence when witness No. 20 in that matter who is accused No. 19 Prakash stopped him, Jagdeo quarreled and slapped Prakash. It also records that on next day i.e. at the time of incident, when complainant Shivaji and his brothers went to fill in that gap, accused persons (therein) tried to enter the field by displacing the fence. When they were obstructed, said accused persons assaulted complainant and his brothers with axes, iron pipes and swords. It is complainant of Shivaji that there was attempt to kill him and 6 eye witnesses. Exh. 153 also shows that the "way" was in the field of Shivaji and he had separated it from his cotton crop by a fence. The prosecution witnesses in present matter who were accused therein have been already acquitted by the very same trial court. PW-4 - Jagdeo was accused No. 8, PW-5 - Manikrao was accused No. 15, PW-6 - Vinayak was accused No. 13, PW-7 - Ramesh was accused No. 9, PW-8 - Pralhad was accused No. 6, PW-9

- Gautam is accused No. 1 in the charge sheet. Here it needs to be noted that father's name of PW-9 is Tukaram while father's name of accused No. 1 is Kisan. But PW-9 has in cross-exam accepted that he was accused in counter case. PW-10 - Anil in this matter is accused No. 11 in counter case. Thus all these witnesses were bound to benefit by altering the spot of occurrence. They have also falsely implicated few more persons or even a non-existent person as co- accused with Shivaji. PW-4 - Jagdeo himself states that accused persons got injured due to their own weapons. PW-9 - Gautam also reiterates it. IO PW-14 did not find any blood on the seized weapons. One of them, in cross-examination, states that they (group in favour of way) were only 16 in number while the accused (group of Shivaji - opposing the way) were 25. Trial Court has implicated only 6 from group of Shivaji.

27. We, therefore, have to find out whether by protecting own field and their cotton crop, appellants become the aggressors. Definitely the appellants will not remove the thorny bushes on field boundary and create a gap for entry within. Thorny bushes uprooted and piled in the field thereby creating a way to enter the field of Shivaji support the story of the appellants and their version in Exh. 153. Fact that thorny bushes needed removal, itself demonstrated that the way was attempted to be created and not in use till then. Appellants were therefore protecting their field and crop. They may have stopped and obstructed the injured from using the newly created way.

28. Learned APP Shri Nayak has relied upon ***Bhagwati Prasad v. State of M.P., (2010) 1 SCC 697 : AIR 2010 SC 349*** to urge that here also the spot asserted by the injured eyewitnesses must be accepted. Observations in paragraph Nos. 14 to 18 in this precedent show that there was no variance between the spot shown by the eyewitnesses and the prosecution. Other material on record in that case fixed the spot as field of complainant and Hon'ble Apex Court finds not finding of the blood in that field not material. In matter before us, the eyewitnesses were accused in counter case and, therefore, interested in creating the confusion about actual spot. They, therefore, did not support the spot as shown by one of them only to police on the day of incident itself. This precedent therefore does not advance the cause of the State at all.

29. Counter cases by both the groups against each other in relation to very same incident, prosecution itself accepting the

snatching of weapons from the prosecution witnesses and attempt to create confusion about the exact spot all create serious doubt about the credibility of the prosecution witnesses and their story. There has been unreasonable delay in recording of the S.161 Cr. P.C. statements of important prosecution witnesses. The deposition of PW-13 - Doctor Khade does not support this delay. We do not find it necessary to dwell upon the simple or grievous nature of those injuries, in present matter. However, when the deposition of injured eye witnesses is not qua the true spot and there is attempt by them to mislead the adjudication, We do not find it necessary to delve into their individual depositions.

30. It cannot be forgotten that they were accused for attack by them on Shivaji and others i.e. the group of present appellants. Their Section 161 statements were definitely after their implication in counter case by Shivaji.

31. Once we find that the eyewitnesses have suppressed the correct genesis, narration of actual events or individual role of the accused persons by them becomes immaterial. The respective Counsel have argued at length about the availability or absence of right of private defence, its extent & scope. APP has urged that it can never be claimed in disputes concerning the right of way and could not have been resorted to in a dispute over right of way. In the light of our discussion supra, we are not inclined to embark upon the exercise to consider niceties of this argument. We are satisfied that the prosecution has failed to bring on record against the appellants, the cogent and consistent material to enable us to hold them guilty or sustain their conviction.

32. Whether in such a group clash, the State Government has to remain satisfied by citing participants therein as witnesses against each other and then, permit them not to cooperate by causing the delay in initial statements or by attempting to mislead the investigation or the "Trial"; is the moot issue. After such a group war and causality therein, the other members will like to go scot-free. They may also help each other to defeat law. It is crime against society and at stake is law and order. Hence, prosecution could have attempted to project and deal with individual member of rival groups as contributing to death of Ratan and injuries to each individual. After recording of the evidence in both the Sessions Trials and hearing of the arguments, the learned APP could have made such a

request in the alternative, at least, in these peculiar facts. However, as we have not heard the respective Counsel at length on desirability of adopting such a course, we refrain from recording any binding observations.

33. We therefore allow the Criminal Appeal preferred by the convicts.

(i) Accused No. 1 - Shivaji, Accused No. 5 - Anand, Accused No. 17 - Haribhau, Accused No. 18 - Vasanta and Accused No. 19 - Prakash i.e. appellants before this Court in Criminal Appeal No. 448 of 2002 are acquitted of all the offences for which they were held guilty and their conviction by the Additional Sessions Judge, Akola in S.T. Case No. 54 of 1996 vide its judgment and order dated 23.07.2002 is quashed and set aside.

(ii) Consequently Criminal Appeal No. 619 of 2002 filed by the State Government for enhancing their punishment is dismissed.

(iii) Bail bonds furnished by them are cancelled.

(iv) Muddemal property be dealt with as directed by the Trial Court after expiry of the appeal period.

***Result*:-** Appeal allowed.

ABC 2017 (I) 47 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(N.W. Sambre, J.)
Criminal Writ Petition No.431 of 2005
Decided on 4 January, 2017
Aurangabad Bench

RAMANNA HANAMAPA CHOUDAKI & ORS. ***- Petitioner(s).***

Versus

STATE OF MAHARASHTRA & ANR. ***- Respondent(s).***

Law Covered*:-** ***(A) Code of Criminal Procedure, 1973 — Section 204 — Issue of Process — Indian Penal Code, 1860 — Section 306 — Abetment to suicide — Criminal Complaint — Ld. Magistrate