

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 715 OF 2015
IN APEAL/137/2015 WITH APEAL/137/2015

ASHOK @ REVANNATH S/O MUKTAJI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Chatterji Joydeep
APP for Respondent/State : Mr. K.S. Patil
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CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.
Dated: July 08, 2015
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PER COURT :-

Heard the learned counsel appearing for the applicant. He submits that, the prosecution has not proved the motive. There is no separate sentence awarded for the offence punishable under Section 498-A of I.P. Code. He further submits that, when the motive is not proved, the entire prosecution case has to fail. It is submitted that, the trial Court has not adverted to cross-examination of the Medical Officer. There is no specific opinion expressed by the Medical Officer that, the death is homicidal. It is further submitted that, even if, it is assumed for a moment that, the accused has absconded, that circumstance cannot lead to the conclusion that, the accused is involved in the commission of offence. Infact due to fear also the person can abscond. It is submitted that, in chain of circumstances,

one circumstance is that, the poison was found in possession of the applicant, that could not have been taken into consideration. Sum and substance of the arguments of the learned counsel appearing for the applicant is that, the prosecution has failed to establish the motive and even other circumstances. There is suspicion about the death, and therefore, the benefit of doubt should be given to the applicant. Therefore, he prays to allow the application.

2. On the other hand, the learned Additional Public Prosecutor appearing for the Respondent/State, relying upon the findings recorded by the trial Court and also other evidence brought on record, submits that, the trial Court has rightly convicted the applicant. Each circumstance has been proved by the prosecution and therefore, he submits that, the application may be rejected.

3. We have given careful consideration to the submissions advanced by the learned counsel appearing for the applicant and the learned Additional Public Prosecutor appearing for the Respondent/State.

4. Upon careful perusal of the evidence brought on record, and in particular, the medical evidence, in our opinion, the findings recorded by the trial Court, prima facie appear to be in consonance with the medical evidence. We have also seen the photographs, which are available on record, so as to ascertain whether the findings recorded by the trial Court are in consonance with the medical evidence.

In every case, which rests upon the circumstantial evidence, it is not necessary to prove the motive. Prima facie, it appears that, on the whole, the prosecution has brought sufficient evidence on record, which would indicate the involvement of the appellant-accused. It is not desirable to elaborate on the evidence when appeal filed by the applicant is pending for hearing. Suffice it to say that, prima facie, the findings recorded by the trial Court appear to be in consonance with evidence on record. Hence the application stands rejected.

5. Registry of this Court shall send the original record and proceedings to the Registry of Additional Sessions Judge, Newasa. Upon receiving the original record and proceedings by the Registry of Sessions Court, the Registry of concerned Court shall prepare the paper book and send it back along with original record and proceedings, as expeditiously as possible, however in any case within three months from today.

6. Upon receiving the paper book and the original record and proceedings, liberty to the learned counsel appearing for the applicant to move for early hearing.

(A. I. S. CHEEMA, J.)

(S.S. SHINDE, J.)

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