

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 1099 OF 2012

THE STATE OF MAH
VERSUS
SATISH FULCHAND BHUTEKAR AND ORS

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APP for Applicant : Mrs. R. K. Ladda.
Advocate for Respondent Nos.1 to 3: Mr. Salunke
Sudarshan J.

CORAM: T. V. NALAWADE, J.
DATED: 23rd JULY. 2015.

PER COURT:

1. The application is filed for grant of leave to file appeal against judgment and order of Sessions case No. 118 of 2010 which was pending in the Court of Additional Sessions Judge, Osmanabad. The Sessions Court has acquitted the Respondents of the offences punishable under sections 498-A, 306 and 34 of IPC. Heard learned A.P.P. Seen the papers including the so called dying declaration.
2. The wife of Respondent No.1 Satish died due to

burn injuries in hospital. In the hospital the dying declaration of deceased Rekha was recorded by Executive Magistrate in the presence of medical officer. She disclosed that her mother in law was mentally and physically harassing her and due to that she sustained injuries. After the death of Rekha her relatives gave report and crime came to be registered and the charge sheet came to be filed. Close relatives have given evidence that there was demand of Rs.60,000/- from husband and his relatives as they wanted to dig bore well in their agricultural land and as this demand was not met with there was ill-treatment given to Rekha. It is contended that Rekha used to inform about the ill-treatment to the parents when she used to visit to the house of her parents at the time of festivals.

3. In the dying declaration, which is proved in the trial Court, there is no reference to aforesaid demand made by the husband and his relatives. Further, it was necessary for the prosecution to show that it was suicidal act but in the dying declaration it is mentioned that there was harassment from the mother in law and due to harassment she sustained injury. Inference is not easy

that she had poured kerosene and she had set herself on fire and committed suicide. The alleged circumstance with reference to recording of dying declaration, presence of close relatives of deceased in the vicinity where the dying declaration is recorded are discussed by the trial Court. The trial Court found that the evidence is not convincing on the ill-treatment. The aforesaid circumstance and evidence shows that the view taken by the trial Court is a possible view and nothing can be achieved by giving opportunity to the State to file the appeal. In view of the nature of dying declaration which is discussed above, this Court holds that leave cannot be granted.

4. In the result, leave refused. Application stands rejected.

[T. V. NALAWADE, J.]

Dt.23/07/2015
ans/1099