

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1075 OF 2015

The State of Maharashtra,
Through the P.S.O. Police Station,
Shivoor, Tq-Vaijapur, Dist-Aurangabad.

...APPLICANT

VERSUS

Santram s/o Suryakant Aher,
Age-50 years, Occu:Labour,
R/o-Pendephthal, Tq-Vaijapur,
Dist-Aurangabad.

...RESPONDENT

...
Mr. V.M. Kagne, A.P.P. for Applicant.
Mr. K.F. Shingare Advocate for Respondent.

...

**CORAM: A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 26TH OCTOBER, 2015

ORDER :

1. This Criminal Application is seeking leave to file Appeal against Judgment and Order of acquittal in Sessions Case No.114 of 2012

delivered by the learned Additional Sessions Judge, Vaijapur.

2. The facts leading to the litigation, in short, can be stated as under:-

. On 1st January 2011 dead bodies of Sunita and her minor son were found in a well. Complainant is Sunita's brother, who learnt about this and rushed to the spot of incident. He alleged in his complaint that his sister and her son were murdered by accused Santram Suryakant Aher, who happens to be husband of Sunita. The learned Judge of trial Court came to conclusion, at the end of the trial, that offence of murder was not proved mainly because homicidal death of the victims was not proved. The deposition of medical officer clearly indicated that both the victims died of asphyxia due to drowning. Nonetheless, the viscera of Sunita was preserved and was found to have contained insecticide. The

learned Judge of the trial Court ignored the finding of C.A. and held that Sunita did not die because of poisoning.

3. On the other hand, the theory of prosecution was that Sunita was forcibly administered insecticide and was thrown in the well. Admittedly, there is no eye witness account of forcible administration of insecticide. There were no external injuries found on Sunita's body. A can of insecticide was found on the side of the well where bodies were found.

4. The learned A.P.P. asserted that this Appeal will be required to be admitted because the cause of death must be re-appreciated. We are afraid, this request cannot be accepted at all. The cause of death of both the victims was proved to be asphyxia due to drowning. This has not been challenged by the prosecution anywhere. Even the medical officer who deposed about cause of death,

was not suggested that at least Sunita could have died due to poisoning etc. Filing of this Application is a futile exercise. We are convinced that there is no reason for admitting the Appeal.

5. In the result, leave to file appeal refused. Application is dismissed.

[V.K. JADHAV, J.]

asb/OCT15

[A.V. NIRGUDE, J.]