

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 1330 OF 2015**

THE STATE OF MAHARASHTRA
VERSUS
BALAJI @ LAKHAN S/O MAROTI KURUDE AND OTHERS

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APP for Applicant : Mr. S.B. Pulkundwar

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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 Additional Public Prosecutor for the applicant/State. He has tendered across bar the copies of the depositions of the witnesses. According to the learned Additional Public Prosecutor PW-9 -Rahul Balaji Bhangre and PW-12 - Bhurekhan Samandarkhan are the witnesses, who have stated that, the deceased was last seen in the company of the accused.

2. We have considered the submissions of the learned Additional Public Prosecutor and also perused the notes of evidence and in particular, evidence of PW-9 and PW-12. It appears that, PW-12 did not support the prosecution case and was declared hostile. Even if the evidence of PW-9 is read in its entirety, at the most, it can be said that, he dropped deceased in Anna Bhau Sathe Chowk, however, he did not state about presence of the

accused, or that he left the deceased in the company of the accused. The entire prosecution case rests upon circumstantial evidence. In the chain of circumstances, the vital circumstance is last seen together. The prosecution has utterly failed to establish the said circumstance apart from other circumstance.

3. In that view of the matter, the case is not made out to grant leave. Leave refused. Consequently, the application stands rejected.

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

(**S.S. SHINDE, J.**)

sga/-

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