

CRIMINAL APPLICATION NO.1391 OF 2015 IN
CRIMINAL APPEAL NO.258 OF 2015

VERSUS

The State of Maharashtra ... RESPONDENT

Shri S.P. Chapalgaonkar, Advocate holding for
Shri S.S. Chapalgaonkar, Advocate for applicant
Shri S.B. Pulkundwar, A.P.P. for respondent / State

CORAM: S.S. SHINDE AND
 A.I.S. CHEEMA, JJ.

DATED: 9th July, 2015.

ORDER (PER : A.I.S. CHEEMA, J.) :

1. The applicant (original accused No.1) has filed this application for suspending his sentence after conviction under Section 302 and Section 201 of the Indian Penal Code and has requested for bail.
2. We have heard counsel for the applicant as well as learned A.P.P. for the State. It is argued on behalf of the applicant that, there is no direct evidence against the applicant and he has been convicted on suspicion. The circumstances

relied on by the prosecution have not been duly proved. The dead body of Sunita, wife of the applicant, was found in a ditch in decomposed condition, which place was accessible to all. Sunita, the wife of applicant, was in habit to go away without informing and thus, it was wrong on the part of the trial Court to hold that the applicant had not reacted when Sunita was missing from home. The learned counsel submitted that the applicant had also tried to search for his missing wife and looking to the facts and circumstances, as found in the record of the trial Court, conviction being based on suspicion, the applicant should be released on bail.

3. The learned A.P.P. opposed the application, submitting that the circumstances were duly established and the applicant is not entitled to bail.

4. We have gone through the record. It appears that, marriage between victim Sunita and the applicant – accused No.1 took place about one year before the incident. Record shows that, Sunita was missing from the matrimonial home for some time. Her father Karbhari Gaikwad came to know from other sources that Sunita was missing from her matrimonial home and there is evidence that he tried to search for her and ultimately filed missing report Exhibit 36 on 27.8.2010. Then there is

evidence of P.W.1 Police Patil, which shows that on 29.8.2010 he filed A.D. report Exhibit 13. Inquest panchanama Exhibit 15 shows that, due to rains in the field of grandfather of applicant part of ground sunk, and on suspicion police was informed and dead body was exhumed as can be seen from inquest panchanama Exhibit 15. Evidence has been brought to show that the spot from where the dead body was exhumed is at short distance from the house of accused persons. According to the prosecution, it was in the field of grandfather of the applicant. The applicant, however, has disputed that the spot from where the dead body was exhumed was field of his grandfather. The substance remains that the spot concerned was at short distance from the house of accused. The trial Court has found that the applicant – husband had responsibility to explain in terms of Section 106 of the Indian Evidence Act, but this was not done. The applicant had not even informed the complainant about his missing daughter who was residing hardly at a distance of 15 Kms. from the village of accused of Kelwad. The trial Court considered further circumstance brought on record by the complainant and brother-in-law of deceased Sunita regarding the demands made by the applicant from complainant to transfer his land in the name of applicant. Evidence is that, applicant was insisting to transfer the land in the name of applicant because

the complainant does not have a son. The evidence brought is that, as the complainant did not agree to transfer the land in his lifetime, the applicant was ill-treating his wife and she had complained before the incident to her father and brother-in-law Sanjay that the applicant was threatening to kill her.

5. The trial Court has discussed the various circumstances and the concerned evidence in support of the same and found that there was a complete chain of circumstances which points out towards the only hypothesis that the applicant was responsible for murder of his wife and destroying evidence by burying her. Prima facie the judgment appears to be well reasoned.

6. Looking to the evidence as available, we do not find that this is a fit case for grant of bail.

7. The application is rejected.

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

(S.S. SHINDE, J.)