

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1418 OF 2015
IN
CRIMINAL APPEAL NO. 281 OF 2015**

1. Chetansingh @ Chattarsingh S/o
Ramsingh Ghushinge,
Age : 23 Years, Occu. : At present
in jail, R/o Hajipurwadi, Tq. Vaijapur,
Dist. Aurangabad .. Applicant

Versus

The State of Maharashtra .. Respondent

Shri H. D. Deshmukh, Advocate for the Applicant.
Shri S. P. Deshmukh, A.P.P. for the Respondent/State.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.
DATE : 14TH DECEMBER, 2015.**

PER COURT :

. The present applicant is prosecuted and convicted for an offence punishable under Section 302, 201 and 498-A of the Indian Penal Code. The present application is for suspension of substantive sentence.

2. Mr. Deshmukh, the learned counsel submits that, the case is based on circumstantial evidence. Only because deceased at

the relevant time was residing with the applicant, the finger is pointed out at the applicant. The marriage between applicant and the deceased was solemnized on 14th May, 2011. On 09th January, 2012 a missing report was filed by the applicant about the deceased. On 08th January, 2012, the fact of deceased missing was also intimated to the relatives. The learned counsel submits that, the applicant is convicted only for the reason that at the time when she was missing, she was residing with the applicant and no proper explanation is coming from the applicant/accused No. 1 about the homicidal death of the deceased. The learned counsel submits that, even factum of homicidal death is not proved beyond the reasonable doubt. The doctor has opined that, the death could be caused by fall on a hard and blunt object. The body was totally found in a decomposed state. Major part of the body was eaten by animals.

3. The learned Assistant Public Prosecutor states that, the applicant was demanding Rs. 50,000/- for purchase of motor cycle from his in laws and even when the applicant was residing with the deceased, he was under the influence of liquor. While relatives were searching for the deceased, he was always illtreating the deceased for illegal demand and in view of Section 106 no proper explanation has been given.

3. We have considered the submissions and the judgment.

There is no direct evidence. The case is based on circumstantial evidence. The opinion of the doctor also will have to be considered who states that, the death can be due to fall on a hard and blunt object. The recovery panchanama has been disbelieved by the Sessions Court.

4. Considering the above, we are inclined to allow the present application. The substantive sentence imposed upon the applicant for the offences punishable U/Sec. 302, 201 and 498-A of the I. P. Code vide judgment and order dated 31st January, 2015, in Sessions Case No. 251 of 2012 by the Additional Sessions Judge, Vaijapur is suspended. The applicant is released on bail pending the hearing and disposal of the appeal on furnishing P. R. bond of Rs. 20,000/- and one surety of the like amount.

5. The criminal application is accordingly disposed of.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]