

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPEAL NO. 394 OF 1997

The State of Maharashtra.

... **APPELLANT**
(Original Complainant)

VERSUS

1. Dilipsingh Ramsing Rajput,
Age : 35 years,
R/o Rajputwada, Shirpur,
Tq. Shirpur, Dist. Dhule.
2. Ajabsing Ramsing Rajput,
Age : 37 years,
R/o Shirpur, Tq. Shirpur,
Dist. Dhule,

Subhash Colony Plot No.71,
Shirpur, Dist. Dhule.

... **RESPONDENTS**
(Original Accused)

...
Mr. S. B. Yawalkar, APP for Appellant / State.

Mr. R. M. Deshmukh, Advocate for the Respondents.
...

CORAM : **A. B. CHAUDHARI &
INDIRA K. JAIN, JJ.**

DATE : 15th October, 2015.

ORAL JUDGMENT: (Per A. B. Chaudhari, J.)

Being aggrieved by the judgment and order dated 29th
August, 1997, passed by the learned Additional Sessions Judge,

Dhule, in Sessions Case No.65 of 1995, recording the order of acquittal of the Respondents/ Accused for the offence of murder, the present appeal is filed by the State of Maharashtra.

2 In support of the appeal, Mr. A. B. Yawalkar, learned APP vehemently argued that the learned trial Judge committed an error in recording the order of acquittal by perversely appreciating the evidence on record. He, therefore, prayed for reversal of the order of acquittal.

3 Per contra, Mr. R. M. Deshmukh, learned counsel for the Respondents / Accused supported the impugned judgment and order and submitted that the prosecution did not have any evidence much less believable evidence in order to convict the Respondents of the serious offence of murder. He, therefore, prayed for dismissal of the appeal.

4 Upon hearing the learned counsel for the rival parties and upon perusal of the reasons recorded by the learned trial Judge, at the outset, we find no perversity on the part of the learned trial Judge. It was the case of prosecution that the two deceased persons were administered poison by the hotel owner through food that is why they

died and thus, the Respondents have committed murder. It is further seen that the deceased persons had consumed alcohol and it appears that the alcohol was found to contain ethyl alcohol, which itself is a poison. Therefore, to say that poison was administered through food was not proved and on the contrary it appears that the deceased having consumed ethyl alcohol i.e. fake liquor, they died because of poisoning of the fake liquor. Thus, the prosecution failed to prove that it is the case about administration of poison by the hotel owner. Therefore, we do not find any perversity on the part of the learned trial Judge. Hence, we make the following order:

ORDER

Criminal Appeal No.394 of 1997, is dismissed.

[INDIRA K. JAIN, J.]

[A. B. CHAUDHARI, J.]

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