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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.24 OF 1997

The State of Maharashtra,
Through Police Station,
Shevgaon.

....Appellant.
(Ori. Complainant)

Versus

1. Jairam Bhausahab Chitale,
Age: 30 years,
2. Bhausahab Gangadhar Chitale,
Age: 50 years,
3. Parvatibai Bhausahab Chitale,
Age: 45 years,
All R/o Varud, Tq. Shevgaon,
District : Ahmednagar.

....Respondents.
(Ori. Accused)

.....
Shri K.S. Patil, APP for appellant.
Shri D.R. Markad, Advocate h/f Shri N.K. Kakade, Advocate
for respondent nos.1 to 3.

.....

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

DATE: 08.10.2015

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

1] Being aggrieved by the judgment and order dated

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29.11.1996 passed by the 5th Additional Sessions Judge, Ahmednagar, in Sessions Case No.179/1996 by which the accused nos.1 to 3 were acquitted for the offence punishable u/s 498-A and 302 r/w 34 of the Indian Penal Code, the present appeal was instituted by the State in this Court.

2] In support of the appeal, the learned APP contended that the reasons given by the learned trial Judge are not cogent and the findings are perverse and, therefore, it is necessary to interfere therewith.

3] The learned counsel for the respondents – accused supported the impugned judgment and order and submitted that as a matter of fact the case was initially registered as accidental death, but only because the mother of the deceased lodged complaint with the Police, the same was converted into that of murder and investigation was completed, but then there is absolutely no evidence against the respondents and that is why the order of acquittal is fully justified.

4] Indisputably, the case is of no direct evidence. The dead body of Muktabai was found in the well in the field belonging to the accused no.2. The husband and

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others took out the dead body from the well and brought it in the house. Obviously, the body had injuries. The mother of the deceased came and lodged information with the Police, which conducted some preliminary investigation and then the FIR was registered u/s 302 of the Indian Penal Code and investigation followed.

5] The learned trial Judge has discussed the evidence that was adduced before the Court. The case of accidental death was registered initially, but in the absence of any evidence to hold the respondents guilty of the offence of murder and rather the case is of no evidence, the learned trial Judge did not make any mistake in passing the order of acquittal. Hence, we pass the following order.

ORDER

Criminal Appeal No.24/1997 is dismissed.

(INDIRA K. JAIN, J.)

(A.B. CHAUDHARI, J.)