

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

Criminal Revision Application No. 252 of 2014

* Chandrakant Gangadhar Deshmukh,
Age 70 years,
Occupation : agriculture,
R/o Yawal, Taluka Yawal,
District Jalgaon. **.. Petitioner.**

Versus

- 1) Suajat Vasudeo Kolhe,
Age 32 yeas,
Occupation : Housewife
- 2) Vasudeo Dhana Kolhe
Age 30 years,
Occupation : Nil.
- 3) Santosh Dhana Kolhe,
Age 28 years,
Occupation : Nil.

All R/o Vaishnawai Mata Nagar,
Khadaka Road, Bhusawal,
Taluka Bhusawal,
District Jalgaon.
- 4) Prabhakar Gambhir Chaudhari
(abated as per order dt 9-2-2015)
- 5) Rahul Prabhakar Chaudhari,
Age Major
R/o 485, V.M. Ward, Bhusawal,
Taluka Bhusawal,
District Jalgaon.

6) The State of Maharashtra. **.. Respondents.**

Shri. Santosh S. Bhosle, Advocate, holding for Shri. Shailesh P. Brahme, Advocate, for petitioner.

Shri. M.S. Kulkarni, Advocate, for respondent Nos.1 to 3.

Respondent No.4 is abated as per order dated 9-2-2015.

Shri. U.H. Bhogle, Additional Public Prosecutor, for respondent No.6.

CORAM: T.V. NALAWADE, J.

DATE : 7th JULY 2015

JUDGMENT:

1) The revision is admitted. Notice after admission made returnable forthwith. Heard both the sides for final disposal by consent.

2) The revision is filed to challenge the order of dismissal of Criminal Appeal No.14 of 2011 made by the learned Sessions Judge Jalgaon. The appeal was filed by the present petitioner against the decision of acquittal given in favour of the present respondents by the Judicial Magistrate First Class Bhusawal. It was a police case filed for offences punishable under sections 143, 147, 448, 504, 506, 149 of the Indian Penal Code.

- 3) The learned Sessions Judge has made following order :

“Order below Exh.1 in Criminal Appeal No.14 of 2011.

Appellant and his Advocate are absent. They have been remaining absent since last three dates. Appeal has not yet been admitted. The appeal is dismissed.”

- 4) The learned counsel for the petitioner took this Court through the provisions of Sections 385 and 386 of the Code of Criminal Procedure and a case reported as **AIR 1996 SC 2439 (Bani Singh v. State of U.P.)**. Provisions of sections 385 and 386 of the Code of Criminal Procedure are considered and interpreted by the Apex Court. The provisions show that even for summary dismissal of appeal reasoning is required to be given by the Sessions Court. The provision shows that appeal cannot be dismissed for default as is done by the Sessions Court in the present case. In view of this position of law, this Court holds that the order made by the learned Sessions Judge cannot sustain in law. The learned counsel for the respondents, original accused, has placed reliance on a

case reported as **2014(1) Bom.C.R.(Cri.) 26 (Surya Baksha Singh v. State of U.P.)**. This case was on altogether different point.

5) In the result, the revision application is allowed. The order made by the Sessions Judge is hereby set aside. The appeal is restored to its original number. The petitioner is to appear in Sessions Court on 31st July 2015.

Sd/-
(T.V. NALAWADE, J.)

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