

CRIMINAL APPLICATION NO.2629 OF 2015.

VERSUS

The State of Maharashtra ... RESPONDENT

Shri C.R. Deshpande, Advocate for applicants
Shri S.D. Kaldete, A.P.P. for respondent

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

DATED: 7th August, 2015.

ORAL ORDER:

1. Heard the learned counsel appearing for the applicants. He submits that, during the pendency of trial, the applicants No.3 to 6 were on bail. It is submitted that, so far alleged incident of killing the husband of complainant is concerned, no any overt act is attributed to the applicants No.2 to 6. It is further submitted that, if the allegations and evidence is considered in its entirety, so far as alleged assault by the accused to the complainant is concerned, she has suffered simple injuries and said injuries may be possible as she was climbing

hillock, and due to fall such injuries can be sustained. Therefore, according to the learned counsel appearing for the applicants, the applicants are entitled for bail.

2. On the other hand, learned A.P.P. appearing for the State, relying upon the findings recorded by the trial Court and notes of evidence, submits that, the evidence of injured witness is on record. She has named all the applicants and overt acts are attributed. The applicants are sentenced to suffer imprisonment for life for the offence punishable under section 302 read with 149 of the Indian Penal Code and, therefore, irrespective of the overt act attributed qua each applicant, all are responsible for the murder of deceased Ruwaji.

3. We have heard the counsel appearing for the applicants and the learned A.P.P. for the State. With their able assistance, we have perused the evidence of P.W.4 Surabai and also the medical evidence of two Medical Officers who examined the deceased and the complainant, in her deposition, has attributed role to all the applicants. The evidence show that, the deceased died on the spot. The appellants are convicted for the offence punishable under Section 302 read with 149 of the Indian Penal Code. Therefore, specific overt act qua each applicant is not necessary when Court has recorded the conclusion that the

appellants, in furtherance of their common object, formed the unlawful assembly and killed Ruwaji and injured the complainant. Upon perusal of the findings recorded by the trial Court, prima facie same appear to be in consonance with the evidence on record. Since the appeal filed by the applicants is pending, we do not wish to elaborate further on the evidence.

4. For the above reasons, the application is rejected. The registry of this Court to send back the original record and proceedings to the registry of the Sessions Court, Nandurbar. Upon receiving the original record and proceedings, the registry of the concerned Court to prepare the Paper Book and send it along with the original record and proceedings to the registry of this Court as expeditiously as possible, however, within three months from receiving the original record and proceedings. After receipt of the Paper Book and original record and proceedings, liberty to the counsel for appellants to mention the appeal for final hearing.

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

(S.S. SHINDE, J.)