

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

CRIMINAL APPEAL NO. 469 OF 2015

RUKMINIBAI W/O SHANKAR KABRA
VERSUS
THE STATE OF MAHARASHTRA & ORS

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Advocate for Appellant : Mr. Jadhav Vinod B.
APP for Respondent/State : Mr. S.B. Pulkundwar

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CORAM : S.S. SHINDE & A. I. S. CHEEMA, JJ.
Dated: August 10, 2015

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PER COURT :-

Heard the learned counsel for the complainant. Perused the record of the trial Court as well as the appeal memo. Going through the material available on record, it appears that, the prosecution under section 302, 120-B r/w 34 of Indian Penal Code was brought against the accused persons on suspicion as there was quarrel between accused No.1 and deceased before the death of deceased Govind, who was later found hanging in the field of one Vishwambhar Patil. It was alleged that, the accused no.1 had sent his employee and threatened Govind for having stolen an amount of Rs. 10,000/- from the Permit Room. The another reason stated for the incident is that, the deceased had illicit relations with accused no.4 and her husband accused no.3 quarreled with the deceased.

2. Going through the material available, there is only evidence of PW-4 -Balaji regarding last seen, who claimed in his evidence that, he has seen accused no.1 proceeding on motor cycle. There was another person on the said motor cycle, who had covered his head and third person on motor cycle was the deceased. PW-4 claimed that he has seen this with the help of torch in the midnight. The trial Court noticed that, the evidence was by way of improvement for the first time in the Court and to support the said contention, test identification parade was not held. The trial Court has discussed the material and found out that, there is no other material corroborating the case of the prosecution. Even the doctor could not tell exact time of death of the victim. The only circumstance against the accused is of last seen together with the deceased. According to the trial Court, the case was not established and has given the benefit of doubt to the accused.

3. We have heard the learned counsel appearing for the appellant. He could not point out any further material from the record of the trial Court which could be said to have not been considered by the trial Court. Going through the material on record and the reasons recorded by the trial Court, opinion of the trial Court and the reasons recorded by the trial Court to acquit the accused persons, appears to be plausible view. This being so, there is no case made out to admit the appeal.

4. We decline to admit the appeal. Appeal stands rejected.

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

(**S.S. SHINDE, J.**)

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