

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

Criminal Application No.4917 of 2014

The State of Maharashtra
Through Durgappa Tippanna Dandgule .. **Applicant.**

Versus

Hanumant Gurappa Chavan (Mane)
And Others. .. **Respondents.**

Shri. K.M. Suryawanshi, Additional Public Prosecutor, for
applicant.

**CORAM: T.V. NALAWADE &
Smt. I.K. JAIN, JJ.**

DATE : 25th MARCH 2015

ORDER:

1) The application is filed for grant of leave to file appeal against the judgment and order of Sessions Case No.24 of 2009 which was pending in the Court of the Additional Sessions Judge, Omerga. All the respondents are acquitted of offence punishable under section 302 read with 34 of the Indian Penal Code. Learned Additional Public Prosecutor is heard. Seen the original record.

2) It appears that initially crime was registered for offence punishable under section 325 read with 34 Indian Penal Code on the basis of so called statement given by the deceased Balaji in the hospital. He blamed the present respondents for causing him injuries and he made allegation that he was first assaulted and then he was thrown by the respondents into a ditch. Son of the deceased Balaji came to know about the incident and he rushed to the spot. He along with other relatives shifted Balaji to hospitals, at various places like Sastur, Omerga, Solapur and Pune. Balaji died after 3 months due to cardio respiratory arrest due to septicaemia.

3) In the post mortem report no injury as such caused by use of violence is mentioned. There was no surface wound or injury to the internal organs. It appears that before the trial Court, M.L.C., which must have been prepared after first admission of Balaji in the hospital, was not produced. Thus, there was nothing on the record to show that there is something to corroborate the contents of the dying declaration. The trial Court has not given separate finding regarding homicidal death. But it can be

said that the aforesaid material was there which does not show that any such injury had led to septicaemia. In view of these circumstances, the trial Court has given decision of acquittal. This Court holds that nothing can be achieved if the leave is granted to the State to file appeal against this decision.

4) The application is rejected.

Sd/-
(Smt. I.K. JAIN, J.)

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

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