

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

Criminal Application No.5219 of 2014

The State of Maharashtra. .. **Applicant.**

Versus

Sachin Rajendra Koli. .. **Respondent.**

Shri. V.D. Godbharle, 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.17 of 2013 which was pending in the Court of the Additional Sessions Judge Osmanabad. The respondent was charge-sheeted for offences punishable under sections 302, 201, 404 of the Indian Penal Code. The respondent is acquitted of the offences punishable under sections 302 and 201 of the Indian Penal Code but he is convicted and sentenced for offence punishable under section 404 of the Indian Penal Code. Learned Additional Public Prosecutor is heard. This Court has perused the

original record.

2) The dead body of the deceased was found in a well which was found tied with motor cycle. The articles of the deceased like three gold rings were recovered on the basis of statement given by the respondent under section 27 of the Evidence Act. Those articles are identified by the relatives of the deceased. Further, more property like ATM Card, licence and other articles of the deceased were also recovered on the basis similar statement given by the respondent. The judgment and other material do not show that the accused had any explanation to offer in respect of this circumstance. The trial Court has convicted the respondent only for offence under section 404 of the Indian Penal Code.

3) The circumstance like dead body was found tied with the motor cycle is sufficient to infer that it was nothing but murder. The limbs of the dead body were found to be tied by using metal wire and there were at least 4 injuries found on the dead body which were ante mortem in nature.

4) There is arguable case for the State. So the application is allowed. Leave is granted. The appeal admitted. Compliance of the provision of Section 390 of the Code of Criminal Procedure be made.

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

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

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