

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

**CRIMINAL APPLICATION NO. 5346 OF 2015**

The State of Maharashtra

.. Applicant

**Versus**

Prabhawati Pramod Bobade and another .. Respondents

Shri S. G. Karlekar, A.P.P. for the Applicant/State.

**CORAM : S. V. GANGAPURWALA AND  
V. K. JADHAV, JJ.**

**DATE : 14TH DECEMBER, 2015.**

**PER COURT :**

. This is an application seeking leave to file an appeal. The present respondents/accused have been acquitted for the offences punishable U/Sec. 302 and 328 r/w Sec. 34 of the Indian Penal Code.

2. Mr. Karlekar, the learned Assistant Public Prosecutor submits that, the final postmortem report states that probable cause of death is myo-cardial infraction. The same can be caused by poison also. The learned A. P. P. submits that the food given to the deceased was mixed with poison. Even the another person i. e. Shamrao also died subsequently. This fact proves that in the food that was given, the same was contaminated with poison. The

same has caused the death. The evidence of the son of the deceased and the doctor P.W. No. 2 would substantiate the said fact. According to the learned A. P. P. the evidence of the wife of the deceased also is consistent.

3. We have considered the whole judgment.

4. The viscera is not preserved. No opinion was given that the poison was administered to the deceased or the death has been caused due to poison. The final report about the cause of death given is myo-cardial infraction i. e. heart attack.

5. There is also inconsistency in the evidence of the wife of the deceased and also the son of the deceased. The son of the deceased states the story that the deceased had liquor and dinner at the place of the accused. Whereas the wife states that the accused had dinner at his own residence and the tiffin was brought from the accused. The medical evidence does not substantiate the case of death by poison. The son also goes a step further and categorically admits that the deceased had ate stale mutton. The Civil Surgeon also formed three members Committee however, it also could not give any opinion, in absence of any viscera report. It has also come on record that the deceased ate in the night and in the morning he started feeling giddiness, vomiting and loose motions. Though there was a

recovery of rat poison from the house of the accused, however, the C. A. report says that the same would not cause death by myocardial infraction.

6. Considering the totality of the evidence the Sessions Court has rightly discarded the same and has acquitted the accused persons. The criminal application is as such rejected.

**[ V. K. JADHAV, J. ]**

**[ S. V. GANGAPURWALA, J. ]**

bsb/Dec. 15