

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5411 OF 2015

Saluji s/o Yadavrao Magre, Age 30 years,
Occupation Labour, Resident of Thakarwadi,
Taluka Ambad, District Jalna

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

Mr. Yogesh K. Bobade, Advocate for Applicant
Mr. M.A. Deshpande, APP for Respondent/State

CORAM : INDIRA K. JAIN, J.

DATE : 20th November, 2015

PER COURT :

. Heard learned counsel for the parties.

2. Applicant is involved in Crime No. I-10/2015 registered at Satara Police Station, District Aurangabad for the offences punishable under Sections 302, 307, 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. According to prosecution deceased Nirmalabai was married to Applicant before 8 years of the incident. The couple was blessed with a son and a daughter. On 14th January, 2015 at around 10.00 p.m. quarrel took place between Nirmalabai and her husband as Applicant was suspecting character of his wife. After the quarrel Applicant poured kerosene on the person of Nirmalabai and set her on fire. She sustained 61% burns and died due to septic shock due to thermal burns. After setting her ablaze Accused fled away from the spot. The neighbours extinguished fire. Nirmalabai was admitted to Ghati Hospital. Her statement was recorded on 15th January, 2015. On the same day dying declaration was recorded by the Special Judicial Magistrate, Aurangabad. She succumbed to injuries on 15th January, 2015. On the basis of statement of the victim above said crime was registered against Applicant.

4. It is the contention of Applicant that he is innocent, he had not poured kerosene on the person of his wife and did not set her on fire.

5. On perusal of case papers it is apparent that in both the statements recorded by the police officer and the Special Judicial Magistrate, Nirmalabai had categorically stated that on 14th January, 2015

in the evening there was quarrel between her husband and herself and thereafter her husband poured kerosene and set her on fire. From the statement recorded by police officer and dying declaration recorded by the Special Judicial Magistrate *prima facie* involvement of the Applicant in commission of serious crime is made out by the prosecution at this stage. Post conduct of the accused in running away from the spot is the additional circumstance against the accused. In view of consistent dying declarations of Nirmalabai and his post conduct this Court does not find it fit to exercise judicial discretion. Hence the following order -

O R D E R

Criminal Application No. 5411 of 2015 stands rejected.

(INDIRA K. JAIN, J.)