

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPEAL NO. 680 OF 2014**

CHAGUNBAI W/O BHIMRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Appellant : Mr. Gaikwad Amol R.
APP for Respondent/State : Mr. S.G. Nandedkar

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CORAM : S.S. SHINDE & A.M. BADAR, JJ.

Dated: January 16, 2015

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PER COURT :-

Heard the learned counsel appearing for the appellant. Perused the notes of evidence. The learned counsel appearing for the appellant submits that, the complainant has no reason to rope in the accused unnecessarily. It is submitted that, it is only after the C.A. report was received, it came to the notice of the complainant that, the deceased died due to poisoning, and therefore, the First Information Report was lodged on 24.11.2008. It is submitted that, the deceased was in the company of the accused from 10 p.m. to 4 a.m. in the intervening night of 17.11.2008 and 18.11.2008. It is submitted that, the trial Court has not properly appreciated the evidence of the complainant on the motive. The learned counsel appearing for the appellant also invited our attention to the Notes of evidence and submits that, the appeal deserves consideration.

2. The learned Additional Public Prosecutor appearing for the State adopted the arguments of the learned counsel appearing for the appellant and submits that, the appeal deserves consideration.

3. We have heard the learned counsel appearing for the appellant and the learned Additional Public Prosecutor for the State. Perused the original record and proceedings. Upon perusal of the evidence on record, it appears that, the prosecution has utterly failed to establish the motive. The alleged incident had taken place on 17.11.2008, however, First Information Report was lodged belatedly on 24.11.2008. Investigation Officer took search of the house of the accused, however, nothing incriminating was found. Trial Court upon appreciation of evidence on record has found that, the deceased was last seen in the company of the accused at 4 p.m. as stated by the complainant. The prosecution has not explained whereabouts of deceased from 4 p.m. till he returned to his house. In case of circumstantial evidence not only that chain of circumstance should be complete, but the prosecution has to establish each circumstance.

4. Taking overall view of the matter and in the light of the evidence on record, in our opinion, the view taken by the trial Court is possible and even if another view is possible, is no ground for interference in the order of acquittal.

5. In that view of the matter, no case is made out.
Appeal sans merits and hence rejected.

(**A.M. BADAR, J.**)

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

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SGA/-