

JPP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION**

CRIMINAL APPLICATION NO. 33 OF 2015

The State of Maharashtra. ... Appellant.
V/s.
Vishwanath @ Vishwambhar Hariba Kashid. ... Respondent.
Mrs. Sangeeta D. Shinde, APP for the State.

**CORAM : P.V. HARDAS &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.**

MARCH 25, 2015.

P.C. :-

By this Application the Applicant - State seeks leave to file Appeal against the Judgment of the Sessions Judge, Solapur, dated 24.11.2014 in Sessions Case No.101 of 2013, acquitting the Respondent - Accused for offence punishable under Section 302 of the Indian Penal Code.

2. The Respondent is alleged to have killed his wife Kanhopatra. On the day of the incident and was seen by the witnesses taking the deceased to the hospital. The evidence of PW-2 Vimal Shinde indicated that she had seen the Respondent - Accused fleeing from the scene of the incident that is the agricultural field where ultimately the dead body of deceased Kanhopatra was found in the ditch. The Respondent - Accused had tried to abscond from the scene of the incident.

The clothes of the Respondent – Accused are alleged to have been blood stained.

3. The Trial Judge in the Judgment has given reasons as to why he has found that the single circumstance of the accused seen fleeing from the scene of the incident would not be sufficient to warrant the conviction of the accused. In respect of the blood stains on the clothes of the Respondent – Accused, according to the Trial Court, the possibility of the accused assisting his deceased wife and thereby his clothes being blood stained could not be ruled out. Admittedly, deceased Kanhopatra had sustained a fracture and her movements were restricted and was being taken to the Medical Officer by the accused.

4. With the assistance of the learned APP, we have perused the findings recorded by the Trial Court and in our opinion, the view taken by the Trial Court is a possible view to be taken for acquitting the Respondent – Accused, who, at the time of the trial, was 86 years of age. The view taken by the Trial Court is a possible view to be taken on the basis of the evidence on record. We do not notice any perversity in the reasoning of the Trial Court to warrant any interference in this Appeal against Acquittal. Resultantly, there is no merit in the Application. Application is dismissed. Leave refused.

(DR.SHALINI PHANSALKAR-JOSHI, J.) (P.V. HARDAS, J.)