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

CRIMINAL APPLICATION NO. 2 OF 2015

The State of Maharashtra. ... Applicant.

V/s.

Noorhussain Fakirchand Mandal. ... Respondent.

Mrs. S.D. Shinde, APP for the State.

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

JANUARY 06, 2015.

P.C. :-

Since we have condoned the delay in filing of this Application, Registry to register this Application. This Application is heard for admission at the request of the learned APP.

2. The Trial Court by the Judgment which is impugned in the present Application acquitted the Respondent for offence punishable under Section 302 of the Indian Penal Code as the Trial Court found at paragraph 18 of the Judgment that PW-5 Vinodkumar, PW-1 Ganesh Patil and PW-2 Godavari did not know the accused as the accused was a stranger to them and in the absence of the test identification parade, no reliance could be placed on the identity of the accused as the

person who was seen speaking with the deceased about 2 days prior to her death. The Trial Court further came to the conclusion that photographs of the accused had been shown to the witnesses and therefore, their substantive identification in the Court in the absence of the corroborative evidence of test identification parade could not be relied upon.

3. With the assistance of the learned APP we have perused the findings recorded by the Trial Court and on such perusal, in our opinion, 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.

4. Consequently, this Application fails and is dismissed. Leave refused.

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