

vks

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

CRIMINAL APPLICATION NO.18 OF 2015

The State of Maharashtra	... Applicant.
V/s.	
Sarjerao Kalidas Kale	 Respondent

Smt. V.R. Bhosale, APP for Applicant.

**CORAM : P.V.HARDAS &
DR. SHALINI PHANSALKAR-JOSHI, J.J.**

DATE : 2ND MARCH, 2015.

P.C. :

1. By this application, the applicant State seeks grant of leave to challenge the judgment of the Additional Sessions Judge, Pune, dated 29.10.2014 in Session Case No.476 of 2011, acquitting the respondent for offence punishable under Section 498A, 302 and 316 of the Indian Penal Code.
2. The prosecution principally relied upon the circumstances of last seen and motive i.e. the relations between the deceased and the appellant were strained.
3. In support of the first circumstance of last seen, the prosecution has examined P.W. 3, 4 and 7 as witnesses, who had seen

the deceased going on the motorcycle of the respondent accused. In respect of P.W.3, the trial Court has observed that admittedly P.W.3 had seen the deceased and the accused from a distance of about half a kilometer. The trial Court has further recorded a finding that it was impossible for this witness to have identified the deceased and the accused. In respect of P.W.4 the trial Court while relying upon the admission of P.W.4 that the main road was not visible from her place, came to the conclusion on the topography of the area, the witness could not have seen the main road. In respect of P.W.7, the trial Court has observed that on account of belated statement of this witness i.e. after a delay of more than 2 months, no reliance could be placed on the testimony of this witness.

4. With regard to the charge under Section 498A, the trial Judge came to the conclusion that the allegations were omnibus and vague and therefore no reliance could be placed on the evidence of witnesses examined in support of charge under Section 498A.

5. We have heard learned APP with whose assistance we have perused the findings recorded by the trial Court. Upon such perusal, in our opinion, the view taken by the trial court is possible view to be taken on the basis of 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. Accordingly this application is dismissed. Leave refused.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[P.V.HARDAS, J.]