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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.824 OF 2015
IN
CRIMINAL APPEAL NO. 513 OF 2015

Vikram Rajaram Chourasiya

..Applicant

Vs.

The State of Maharashtra

..Respondent.

Mrs. Aisha Mohammed Subair Ansari for Appellant.

Mr. H.J. Dedhia, APP for State.

CORAM: B.P. DHARMADHIKARI &
A.S. GADKARI, JJ.

10th August 2015.

P.C.

Heard learned Counsel for the applicant and learned APP for State.

2 Submission is that the two dying declarations recorded in hand-writing of deceased could not have been acted upon. Submission is that in view of three deep cuts to throat, as accepted by doctor, the patient should have been in unconscious condition. The material on record shows that after surgery the patient was unconscious.

3 Doctor has stated that the patient was without treatment for

quite sometime. However, her first written dying declaration is recorded by the Special Executive Officer and as she was not in a position to speak, she has written down the answers. The second dying declaration recorded by the police is during investigation and again questions put are answered by her in her own hand-writing.

4 The material on record therefore does not enable us to discard those two dying declarations at this stage.

5 Learned Counsel submits that as per judgment of this Court those dying declarations are not reliable and evidence of doctor should be accepted. Doctor who has certified the competence and fitness of the deceased to give dying declaration has not stated that she was unconscious when same was recorded. There is no evidence to show that, she was unconscious when police authorities recorded other dying declaration at Exhibit 13.

6 In the situation, it is not possible for us to delve more in to evidence at this stage.

7 Application for bail is rejected. Hearing of the appeal is expedited.

(A.S. GADKARI,J.)

(B.P. DHARMADHIKARI,J.)

