

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

CRIMINAL APPLICATION (ALS) NO. 197 OF 2014

The State of Maharashtra

..Applicant/Appellant
(Org. Complainant)

V/s.

Usman Razzak Shaikh & Ors.

.. Respondents

Mrs.P.P. Bhosale, APP for State.

Mr. Sachin Thorat, for respondent no. 1,3 & 4.

CORAM : A. R. JOSHI, J.

DATE : 29TH JUNE, 2015.

P.C.

1. Heard the learned APP for the State and the learned counsel for the respondent no.1,3 and 4. Respondent no.2 had already died.

2. This is an application for leave to file appeal preferred by the State challenging the judgment and order of the acquittal of the respondents for the offence punishable under section 498A, 306, 323 and 504 read with 34 of Indian Penal Code.

3. It is a case of prosecution that on the day of

incident the victim women set herself on fire by pouring kerosene on account of mental and physical cruelty and ill-treatment given by the respondents.

4. The Trial Court was influenced by the discrepancy in the three dying declarations recorded by the officer. The Trial Court also discussed the variance in the said statements vis-a-vis oral dying declaration given to two other witnesses. It must be ascertain that it was the temperament of person whether to sustain a particular situation or not and in every case of alleged torture and ill-treatment every victim do not end his life. Trial Court also discussed the substantive evidence of the victim and found that there were no other complainants lodged against the appellant. Lastly, the court came to the conclusion that the prosecution failed to establish the events of alleged ill treatment and cruelty practiced on the victim women by the respondents so as to satisfy the ingredients of the offences as charged.

5. Considering the material available, the view taken

by the Trial Court can be possible. More so, there is nothing to entertain a different view when the court is seized of the matter in a challenge to the order of acquittal. It cannot be said that order of the trial Court is of such a pervert nature so as to interfere by allowing the State to prefer appeal. There is nothing to re-agitate the matter now and to come to the different conclusion than that arrived at by the Trial Court. In the result, there is nothing to entertain the present application and the same is accordingly dismissed and disposed of.

(A. R. JOSHI, J)