

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 625 OF 2015 IN & WITH CRIMINAL APPEAL NO.
543 OF 2014

Smt. Sunanda w/o Gopal Waghmare .vs. State of Maharashtra & another

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Mr. G.S. Lahoti, Advocate (appointed) for appellant.
Mr. M.J. Khan, A.P.P. for respondent no.1.

CORAM : B.R. GAVAI & PRASANNA B. VARALE, JJ.

DATED : OCTOBER 20, 2015.

Though the appellant has not filed an application for leave to appeal, we are treating this proceeding as an application to seek leave in appeal.

Now it is settled in view of the judgment of the Apex Court in the case of **Satyapal Singh .vs. State of Madhya Pradesh & others : Criminal Appeal No. 1315/15 decided on 6.10.2015** that even for a victim, it is necessary to seek leave of this Court to file an appeal.

The prosecution case is that the respondent accused had assaulted the deceased Gopal as well as PW.8 Arun Chendkapure with a crowbar, as a result of which deceased Gopal died and PW.8 Arun sustained serious injuries.

The prosecution basically relies on PW.9 Suwarna – daughter of PW.8 and PW.8 Arun. The perusal of evidence of PW.9 Surwarna, who is said to be eye-witness, would show that she had not witnessed the incident and she had deposed as per version given to her by her father in the hospital.

In so far as PW.8 Arun is concerned, though he has stated in his deposition that he had seen the present accused assaulting him, in the statement recorded under Section 161 of Criminal Procedure Code, he has stated that he was assaulted in the door and he came to know in the hospital that it was the accused who had assaulted him. The Investigating Officer was examined and he affirmed that the aforesaid statement was made by the accused while recording statement under Section 161 of Criminal Procedure Code. As such, the evidence of the said witness also cannot be said to be trustworthy.

In that view of the matter, no case is made out to interfere with the findings of the learned trial Court. The appeal is without merit. Leave to appeal is refused. Appeal stands rejected.

The Criminal Application Nos. 625/15 & 626/15 also stand disposed of accordingly.

Fees payable to the learned Counsel appointed for the appellant are quantified at Rs.1500/-.

Judge

Judge

J.