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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 293 OF 2016

The State of Maharashtra

..APPLICANT

VERSUS

Umesh Shankarsingh Shrivastav & ors.

..RESPONDENTS

Mr A. S. Shinde, Addl. Public Prosecutor for applicant;
Mr N. S. Ghanekar, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 23rd June, 2016

ORAL ORDER :

Heard.

2. Perused the finding recorded by the learned Court below and evidence, as is read by the learned Additional Public Prosecutor, ordering acquittal of the accused persons, by an order dated 6th October, 2015, passed in Sessions Case No. 110 of 2011.

3. Prima facie, I am of the opinion that there is no material on record against accused No. 4 – Prabha w/o Umesh Thakur, who is a married sister of accused No. 1, staying at Mumbai. Hence, no case is made out for grant of leave against her.

(2)

4. Prima facie, it is to be noted that the learned Additional Sessions Judge, Aurangabad has lost sight of the provisions of Section 113(A) of the Indian Evidence Act. The rebuttal of presumption by the accused is an issue, which in my opinion, needs consideration.

5. In view there of, leave granted against respondents-accused Nos. 1 to 3.

6. Criminal Application stands allowed in above terms.

7. Appeal is admitted.

8. Action under Section 390 of the Code of Criminal Procedure be taken against respondents-accused No. 1 to 3.

9. Mr Ghanekar, learned Counsel waives service of notice on behalf of the respondent Nos. 1 to 3.

(N.W. SAMBRE, J.)

sjk