

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

CRIMINAL APPLICATION NO. 1281 OF 2014

The State of Maharashtra

...APPLICANT

versus

Subhash Dagdu Adhe

...RESPONDENT

.....
Mr. A.M. Phule, APP for Applicant - State

Mr. V.B. Garud, Advocate for Respondent – original accused

.....

**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 15th DECEMBER, 2016.

Order :-

1. Heard learned learned APP appearing for the applicant-State and learned counsel appearing for respondent.
2. Learned APP invites our attention to the evidence of prosecution and medical evidence and submits that evidence of the prosecution witnesses is not properly considered by the trial Court. He specifically invited our attention to the evidence of P.W.1-Lilabai Machindra Jadhav.
3. The learned counsel for respondent – original accused submits that the case rests upon circumstantial evidence and only circumstance is that the deceased was last seen in the company of the accused, has not been proved by the prosecution. He further invited our attention to the deposition of P.W. 3 – Sundrabai Ganpat Rathod and submits that this witness in her evidence has stated that she had seen one Ramesh

accompanied with deceased on the motorcycle. He further submits that evidence of prosecution witnesses suffers from material contradictions, improvements and omissions, therefore, the trial Court has rightly extended benefit of doubt to respondent – original accused. Hence, this court may not entertain this application.

4. Upon perusal of notes of evidence, in particular, evidence of material witnesses and the medial evidence, in our opinion, the evidence on record deserves to be re-appreciated and the findings recorded appear to be not inconsonance with the evidence brought on record. Hence, the application is allowed and stands disposed of accordingly.

5. ***Appeal*** is admitted. On admission, learned counsel waives service of notice for respondent – original accused.

6. Action under section 390 of Code of Criminal Procedure to follow before the Sessions Court at Jalna.

[K. K. SONAWANE, J.]

[S.S. SHINDE, J.]

MTK