

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3673 OF 2016

IN

CRIMINAL APPEAL NO.432 OF 2016

Gulabsing Sureshsing Sisodiya,
Age-30 years, Occu:Driver,
R/o-Advas, Tq-Sarala,
Dist-Udaipur (Rajasthan),
Also at: Kailas Dairy,
Anand Plot, Bapu Nagar,
Ahmedabad, Gujrat.

...APPLICANT

VERSUS

The State of Maharashtra,
(Through Police Station Visarwadi
Dist-Nandurbar).

...RESPONDENT

...

Mr. A.D. Sonkawade Advocate for Applicant.
Mr. A.R. Borulkar, A.P.P. for Respondent.

...

**CORAM: S.S. SHINDE AND
V.K. JADHAV, JJ.**

DATE : 30TH SEPTEMBER, 2016

ORDER :

1. Heard learned counsel for the Applicant.

He submits that the prosecution failed to establish the case against the Applicant beyond reasonable doubts. He submits that though it is the case of the prosecution that blood stains were found on the vehicle, as a matter of fact there is no C.A. Report. It is further submitted that when there was traffic on both the sides of road, it is impossible that the Applicant would drive the vehicle 10 K.m.s. further. He further submits that the essential ingredients under Section 301 of the Indian Penal Code are not satisfied. The learned counsel further submits that all the witnesses are interested witnesses.

2. The learned A.P.P. appearing for the State submits that in the light of evidence of prosecution witnesses and in particular evidence of PW-1, the findings recorded by the trial Court are sustainable. He submits that Police Officer Allauddin Kazi tried to stop the vehicle but the Applicant drove the vehicle on his person. The

findings recorded by the trial Court are sustainable.

3. We have carefully considered the submissions advanced by the counsel for both sides. We have also carefully perused the evidence of prosecution witnesses and in particular witness PW-1. It is not necessary for us to elaborate on the evidence since the Appeal filed by the Applicant is pending. Suffice it to say that if the evidence of prosecution witness PW-1 and other witnesses is read in its entirety, the act of the Applicant to drive the vehicle on the person of Police Officer who ultimately died due to the act of Applicant, cannot be countenanced. The findings recorded by the trial Court are prima facie sustainable. No case is made out. The Application stands rejected.

4. The Registry of this Court shall send original Record and Proceedings to the Registry of

Additional Sessions Judge, Nandurbar forthwith. Upon receiving the original record and proceedings by the Registry of the Additional Sessions Judge, Nandurbar, the Registry of concerned Court shall prepare the paper book and send it back along with original record and proceedings, as expeditiously as possible, however, in any case within three months from receipt of the original record and proceedings. The Registry of this Court shall include this Appeal for final hearing in the Cause List to be published for the month of February 2017.

[V.K. JADHAV, J.]

asb/SEP16

[S.S. SHINDE, J.]