

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

CRIMINAL APPLICATION NO.5847 OF 2015

The State of Maharashtra

...APPLICANT

VERSUS

- 1) Shankar Sopan Jadhav,
- 2) Sangappa Ramanna Suryawanshi,
- 3) Lobhaji Laxman Suryawanshi
(Abated),
- 4) Baliram Manik Suryawanshi,
- 5) Balaji Sangappa Suryawanshi,
- 6) Hira Manik Suryawanshi,
- 7) Hari @ Haridas Sangappa Suryawanshi,
- 8) Vilas Laxman Suryawanshi

...RESPONDENTS

...
Mr.A.A. Jagatkar, A.P.P. for Applicant.

...

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

DATE : 6TH DECEMBER, 2016

ORDER :

. One Mr. Sayyed Nazhar Hasham Ali, working as Police Sub Inspector, Police Station, Naldurg, Dist-Osmanabad has filed service affidavit stating therein that the Respondents/ accused namely, Shankar Sopan Jadhav, Sangappa Ramanna Suryawanshi, Baliram Manik Suryawanshi, Balaji Sangappa Suryawanshi, Hira Manik Suryawanshi, Hari @ Haridas Sangappa Suryawanshi and Vilas Laxman Suryawanshi are served by him and also they are informed about the pendency of the Appeal. It is further stated in the affidavit that the accused - Lobhaji Laxman Suryawanshi died in the year 2011. The concerned police officer has placed on record death certificate issued by the Health Department, Government of Maharashtra, wherein it is mentioned that said Lobhaji Laxman Suryawanshi died on 11th November 2011.

2. In view of the affidavit filed by the

concerned police officer accompanied with the death certificate, this Appeal qua Respondent No.3 - Lobhaji Laxman Suryawanshi stands abated.

3. In spite of service, none appears for Respondent Nos. 1, 2 and 4 to 8.

4. Heard learned A.P.P. appearing for the State. Perused the evidence of the prosecution witnesses and also the medical evidence. It prima facie appears that the findings recorded by the trial Court are not in consonance with the evidence brought on record by the prosecution. Evidence of PW-9 Manisha and other prosecution witnesses is not properly appreciated by the trial Court.

5. In the light of above, case is established for admission of the Appeal, allowing the Application seeking leave to appeal.

6. The Application seeking leave to appeal is allowed and the same stands disposed of.

7. Appeal **Admit.**

8. Action under Section 390 of the Code of Criminal Procedure to follow, against Respondent Nos.1, 2 and 4 to 8, before the Sessions Court, Osmanabad.

[K.K. SONAWANE, J.]

asb/DEC16

[S.S. SHINDE, J.]