

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

**CRIMINAL APPLICATION NO. 6968 OF 2015**

**THE STATE OF MAHARASHTRA  
VERSUS  
DAGADU POPAT PHATANGRE AND ORS**

**...  
APP for Applicant : Mr.A.V.Deshmukh  
Advocate for Respondents : Mr.S.K.Shinde for R.1 to 3.**

**...**

**CORAM : V.L.ACHLIYA,J.  
DATE : 18/10/2016**

**PER COURT :-**

The applicant/State Government has preferred this application seeking leave to file appeal against the judgment and order passed in Sessions Case No.18/2014 dated 21/8/2015 decided by Assistant Sessions Judge, Sangamner, Dist.Ahmednagar.

2] Heard the learned APP for applicant-State and Mr.S.K.Shinde, learned counsel representing respondents no.1 to 3. Perused the impugned judgment and order and the copies of depositions as made available by learned APP during the course of hearing.

3] The respondent/accused were tried for committing offences

punishable under Sections 306, 323, 504, 506 r.w. 34 of IPC with allegations that they had abetted commission of suicide by Bhaskar Baban Randhe, the husband of respondent no.3. In nutshell, prosecution has approached with the case that accused no.1 had illicit relations with accused no.3. The accused no.1 and 2 had taken Rs.2,50,000/- from deceased Bhaskar and they were avoiding to repay the amount. The accused used to beat and insult Bhaskar whenever he used to demand the amount. Because of ill treatment at the hands of accused and illicit relations of accused no.1 with accused no.3 i.e. the wife of deceased, the accused committed suicide. The deceased was found to be missing w.e.f. 8/12/2013. On 22/12/2013, the dead body of the deceased was found at a lonely place in decomposed condition. The dead body of the deceased was referred for post mortem. However, the autopsy surgeon could not determine the cause of the death. On the basis of complaint lodged by Baban Randhe (P.W.1) the father of deceased Bhaskar the aforesaid offence came to be registered against accused no.1 to 3. On completion of the investigation, charge sheet was filed.

4] In order to prove its case, prosecution has examined nine witnesses which includes Baban (PW1) uncle of deceased, Shantabai (PW2) mother of deceased and few other persons which includes Dr.Indrajit Gambhire (PW7) Autopsy Surgeon. The accused

have taken defence of total denial and false implication at the instance of complainant. On conclusion of the trial, trial Court has acquitted the accused by observing that the prosecution has failed to prove that accused have aided and instigated the deceased to commit suicide. Being aggrieved, the applicant-State Government has moved this application seeking leave to file appeal against impugned judgment and order.

5] In order to appreciate the submissions advanced, I have perused the impugned judgment and order and the copies of depositions. In my view, the judgment is well reasoned and the reasons and findings recorded by trial Court are fully in consonance with the evidence on record. The reasons and findings recorded by learned Additional Sessions Judge reflects that the prosecution has even failed to prove that the deceased died suicidal death. In this context, it is useful to refer the testimony of Dr.Indrajit Gambhire (PW7) who conducted autopsy of dead body of deceased. In the examination in chief itself, the said witness had deposed that he is unable to state the exact cause of death of deceased as the body was found to be in fully decomposed condition. On failure to prove that deceased died suicidal death, charge under Sections 306 of IPC cannot sustain. Apart from this there is no evidence as such to prove the guilt of accused for offence punishable under Sections 323, 504,

506 r.w. 34 of IPC. In this view, there is no merit in the application.

Application is rejected.

**(V.L.ACHLIYA,J.)**

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