

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.315 OF 2016
IN
CRIMINAL APPEAL NO.181 OF 2012

Dhananjay Mohan Chavan

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mrs.Nasreen Ayubi, advocate appointed for the Applicant
Mr.H.J. Dedia, APP, for Respondent - State

**CORAM: SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.**

DATE: NOVEMBER 23, 2016

P.C. (PER MRS.MRIDULA BHATKAR, J.):

1. Heard both sides.
2. Rule. By consent of the parties, Rule is made returnable forthwith.
3. The applicant/accused i.e., the original accused No.3 is convicted and sentenced to life imprisonment and fine for the offence of murder and other offences punishable under sections 143, 147, 148, 449, 302, 427 r/w 149 and 34 of the Indian Penal Code by

judgment and order dated 9.8.2011 by the Additional Sessions Judge, Pune in Sessions Case No.656 of 2009.

4. There was a rivalry between the groups of the deceased Hira Pujari and the accused on account of celebration of Ganesh festival. The dispute was aggravated and the incident of assault took place in the house of the deceased on 11.10.2008. The applicant-accused and the other 11 accused entered the house of the deceased armed with weapons and assaulted him in which he lost his life. Hence, they were prosecuted and convicted.

5. Learned Counsel for the applicant has submitted that the applicant is in prison since 2008. There is no eye witness to the incident. The sister of the deceased PW16, who claimed to be an eye witness to the incident did not support the prosecution and the other witnesses, who claim to be eye witnesses and believed by the learned Sessions Judge are all interested witnesses as they are either relatives or friends of the deceased.

6. Learned Prosecutor has opposed the application and pointed out that though the sister of the deceased did not support the prosecution. PW1, PW2, PW3 and PW4 are the witnesses whose

evidence can be equally weighed like eye witnesses as they have seen these accused persons entering the house armed with weapons and thereafter coming out with the weapons on which blood was found. He further submitted that the observations made in the post-mortem on the point of injuries sustained by the deceased corroborate with the case of the prosecution and the evidence of PW1, PW2, PW3 and PW4. He further pointed out that a sword was recovered from the present applicant-accused on which blood was found. The blood group of the deceased and the blood group of the said blood stains found on the sword is the same i.e., B group.

7. We have perused all relevant portions in the evidence of the witnesses and the judgment. Considered the post-mortem notes. Prima facie, we find that there is specific evidence against the applicant-accused. There is recovery of the sword from him. Further, the applicant was not on bail during the trial. Considering the submissions of the learned Prosecutor, we are not inclined to grant bail.

8. Hence, the application is rejected.

9. As the connected appeal is placed on the final hearing Board in the week commencing from 5.12.2016, the present appeal to be placed with that appeal.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)