

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 88 OF 2016
(FOR LEAVE TO APPEAL)**

The State of Maharashtra
Versus
Rajesh Dadabhau Dhawale

..Applicant
..Respondent

Mrs. Geeta P. Mulekar, APP for the State.

**CORAM : RANJIT MORE,
DR. SHALINI PHANSALKAR-
JOSHI, JJ.**

DATE : 17th NOVEMBER, 2016.

P. C. :

Heard learned APP for the State.

2. The application is filed seeking leave to appeal against the judgment and order dated 25th January, 2016, passed by learned Additional Sessions Judge, Pune, in Sessions Case No.178 of 2015. The respondent was charged for an offence punishable under Section 302 of the India Penal Code, 1860. In support of the case, the prosecution examined as many as 15 witnesses, out of which, six witnesses claimed to have witnessed the incident in question. None of the eye witnesses, however, supported the prosecution's story.

3. The prosecution also relied upon the CA report showing that the blood of the deceased was found on the person of the accused. The presence of blood on the clothes of the accused would not alone be sufficient to conclude that the accused must have committed the murder especially when the eye witnesses have not supported the same.

4. Learned APP also relied upon the deposition of PW-2 – Dr. Sachin Langhe. Dr. Langhe has testified that PW-1 – Nitin Kamble disclosed that the accused and deceased were good friends and a quarrel had occurred amongst them and, in that quarrel, respondent assaulted deceased by knife around 7.00 pm to 7.30 pm at Talwade Chowk and he, accordingly, recorded the history given by the said Nitin in the case paper. However, this fact is not corroborated by PW-1- Nitin Kamble.

5. Taking the totality of the facts and circumstances of the case into consideration, learned Additional Sessions Judge came to the conclusion that though the death of the deceased is homicide, the prosecution has failed to prove beyond reasonable doubt that respondent has committed murder of the deceased. We find that in support of this conclusion, cogent reasons are recorded. After having considered the submissions of learned APP, we find that the view taken

by learned Additional Sessions Judge is a plausible view and, therefore, we are not inclined to entertain the petition. The writ petition is, accordingly, dismissed.

(DR. SHALINI PHANSALKAR-JOSHI)

[RANJIT MORE, J.]