

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1389 OF 2015
IN
CRIMINAL APPEAL NO.1168 OF 2015

Shri Sopan Raghunath Kashid ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.V.V. Gangurde for the Applicant
Mrs.U.V. Kejriwal, APP, for Respondent – State

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

DATE: **JUNE 10, 2016**

P.C.:

1. Heard both sides.
2. The applicant has been convicted under section 302 of the Indian Penal Code for causing the death of his wife Simabai by setting her on fire. The applicant is now seeking bail.
3. It is the case of the prosecution that the applicant poured kerosene on his wife Simabai and set her on fire. Simabai sustained 77% burns and expired on account of burn injuries. The learned Counsel for the applicant submitted that the applicant was not at home at the time of the incident. In support of his contention, he has placed reliance on the evidence of PW5 Walmik, who has stated that after the fire was extinguished, the accused

reached at the spot. However, it is pertinent to note that PW5 Walmik is the elder brother of the applicant. He has been declared hostile. On the other hand, we have evidence of PW3 Naib Tehsildar Vakhare who has recorded the dying declaration of Simabai on 15.3.2013. In the dying declaration, which is at exhibit 26, Simabai stated that the applicant, who is her husband, set her on fire. In addition to exhibit 26, another dying declaration of Simabai was recorded. This was recorded by PW8 API Najan, which is at exhibit 19/1. This dying declaration was treated as FIR. In this dying declaration also, Simabai stated that her husband had set her on fire. Looking to the two dying declarations, one of which was recorded by an independent witness PW3 Vakhare, we are not inclined to place any reliance on the evidence of the witness who has turned hostile. There is sufficient evidence on record which implicates the applicant and shows that he set his wife Simabai on fire and caused her death.

4. In this view of the matter, we are not inclined to grant bail. Application is rejected.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)