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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.129 OF 2015

The State of Maharashtra	 Applicant
V/s.	
Pandurang Hari Gaikwad and anr	 Respondents

Mrs. S.D. Shinde, APP for the Applicant State.

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

DATE : 22nd NOVEMBER, 2016.

P.C. :

1. Heard Mrs. S.D. Shinde, learned APP appearing on behalf of applicant State.
2. This application is filed for seeking leave to appeal against the judgment and order dated 20.08.2015, passed by learned Additional Sessions Judge, Solapur, in Special Case No.42 of 2013, of acquittal of respondents for offence punishable under Sections 3(1) (v), [3(2) (v) and 3(1)(x) read with Section 6 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and for offence punishable under Section 302 read with 34 of the Indian Penal Code.
3. The incident in question occurred on 20.8.2013. F.I.R. is lodged at the instance of P.W.1 Sitabai on 24.08.2013. The deceased

died on 25.08.2013. In support of its case, prosecution examined as many as 9 witnesses. The prosecution relied upon the evidence of P.W.1 Sitabai- the wife of deceased, P.W. 2 and P.W.3, who are claimed to be the eye witnesses. In addition to this, prosecution relied upon oral dying declaration given to P.W. Nos. 1 & 2. The learned Sessions Judge disbelieved P.W. 1, 2 and 3 on the ground of contradictions.

4. We have gone through the deposition of P.W. Nos. 1, 2 and 3 and find that prima facie case is made out. We, therefore, grant leave to appeal. Appeal is admitted.

5. Registry is directed to take action against respondents under Section 390 of Code of Criminal Procedure.

[DR. SHALINI PHANSALKAR JOSHI, J.]

[RANJIT MORE,J.]