

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 159 OF 2016

IN

CRIMINAL APPEAL NO. 85 OF 2016

(SURESH BHAURAOJI BHOYAR...VS..STATE OF MAH. THR. PSO TALEGAON, DIST. AMRAVATI)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MARCH 28, 2016.

Heard Shri Mahesh Rai, advocate for the appellant/ applicant and Shri S.B.Bissa, A.P.P. for the respondent/non-applicant.

The appellant is convicted for the offences punishable under Sections 306 and 498-A of the Indian Penal Code and is sentenced to undergo imprisonment for seven years and one year, respectively. The sentences are directed to run concurrently.

Shri Mahesh Rai, learned advocate for the appellant has pointed out that the conviction is based on the evidence of P.W.1-Ashok and P.W. 5-Vilas. It is submitted that the effect of dying declaration, which shows that the appellant is not involved in the crime, recorded by Shyamrao Kawaduji Jadhav, H.C. (P.W.8) has not been considered by the Sessions Court. It is further submitted that the incident occurred on 29th March, 2013 and the documents on record show that the victim had sustained 60% burn injuries and the victim succumbed to the injuries on 22nd April, 2013 and there is no explanation as to why the dying declaration has not been recorded as per the procedure.

Considering the facts on record and as there is no chance that the appeal will be heard in near-future, the sentence imposed by the impugned judgment is suspended till final hearing of the appeal.

If the custody of the applicant is not required in any other case, he be released on bail on the same terms and conditions as were imposed by the Sessions Court.

The application is **allowed** in the above terms.

JUDGE

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