

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 193 OF 2016 IN CRIMINAL APPEAL
NO. OF 2016.

(Namdeo s/o Ganuji Lambade .vs. The State of Maharashtra & another)

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

Court's or Judge's orders

Mr. R.N. Ghuge, Advocate for applicant.

Mrs. M.N. Hiwase, A.P.P. for respondent no.1.

CORAM : B.R. GAVAI & V.M. DESHPANDE, JJ.

DATED : JULY 4, 2016.

The appeal challenges the order of acquittal as recorded by the learned Sessions Judge, Washim.

The respondent no.2 original accused was tried for the offences punishable under Sections 302 & 201 of the Indian Penal Code. It was the prosecution case that the deceased had committed murder of one Jaibai Namdeo Lambhade by electrocution on the intervening night of 13.12.2012 and 14.12.2012 and thereafter created a scene that the deceased Jaibai had sustained an accidental shock in the field of her father.

The case basically rested on circumstantial evidence. The circumstances which were relied upon by the prosecution were last seen together theory and the recovery of the incriminating material at the instance of the accused.

In so far as the last seen together theory is concerned, the prosecution witnesses did not support the case of the prosecution. The learned trial Judge has come to the conclusion

that there was no evidence in support of the said last seen together theory.

In so far as the second circumstance is concerned, the learned trial Judge has come to the conclusion that the witnesses in support of the recovery have not deposed regarding the memorandum under Section 27 of the Indian Evidence Act and as such, evidence with regard to recovery was not of much assistance to the prosecution.

We have personally perused the evidence of the prosecution witnesses Laxman Pable and Datta Mahadu Tonchar.

From the perusal of the evidence, it cannot be said that the view taken by the learned trial Judge is either perverse or impossible.

In that view of the matter, no case is made out for interference. The Criminal Application is hence rejected.

Judge

Judge

J.