

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 156/2015.

Manikrao Bapural Kale.

-VERSUS-

Vasantrao Vishwasrao Charjan and others.

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

Court's or Judge's Orders

CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.

DATE : NOVEMBER 28, 2016.

Shri A.S. Manohar, learned Counsel for the applicant/appellant, Shri Shrish Gupte, learned Senior Counsel with Shri S.V. Dere, learned counsel for respondent nos. 1 to 4 and Shri R.M. Daga, learned Counsel for respondent no.5.

2. Applicant/appellant Manikrao, who is father of deceased Vaishali seeks leave to file appeal against the judgment and order dated 23.01.2014 delivered by the Sessions Court, Amravati in Sessions Case No. 63/2006. There were 9 accused persons. By the impugned judgment, the Trial Court has convicted only accused no.1 – husband – Pravin, along with two

2

investigating officers. Other family members of Pravin have been left free.

3. Appeal filed by Pravin challenging his conviction vide Appeal No. 59/2014 is already admitted by this Court, and is to be heard expeditiously as per orders of the Hon'ble Supreme Court.

4. In this matter, leave is sought to assail acquittal of other family members.

5. It is not in dispute that during the pendency of this proceedings, Vasantrao i.e. father of Pravin expired. His Mother, his brother, wife of brother and a lady relationship with him (now his wife), are respondents before this Court.

6. We have heard learned counsel for the parties.

7. Respective counsel have drawn our attention to paragraph nos.61, 70, 71 and 72 of the judgment delivered by the Trial Court as also to relevant evidence. Shri Manohar, learned counsel has urged that when the parents of the convicted accused were occupying same house, the trial Court could not have let them free. He also states that death was

3

known to respondent no.2 in the morning itself, but, at 9.30 a.m. when brother of deceased called deceased on telephone to greet on account of Dushera, the death was not informed by respondent. He further submits that on the fateful night, child Adhiraj was sent out and was taken by respondent nos. 3 and 4 to their house to facilitate commission of crime. It is further contended that respondent no.5 [accused no.7] had prior to the incident expressed that the deceased was coming in way of the relationship of convicted accused and herself. He submits that this material necessitates fresh appreciation of entire evidence.

8. Shri Gupte, learned Senior Counsel on the other hand submits that merely because death was not allegedly informed on telephone or then the child was with his aunt and uncle, the arguments assailing the judgment cannot be accepted. Shri Daga, learned counsel submits that the alleged expression by accused no.7 is prior to 6 months of the event.

9. Both the learned counsel state that the trial Court has looked into all facts and there is no overt act on the part of any of the acquitted accused. Even no knowledge of facts to attract Section 498-A has been

4

brought on record in so far as these persons are concerned. The event has taken place in a bathroom attached to bed room of the couple, which is on second floor of the house.

10. With the assistance of respective learned counsel we have perused the material on record as also judgments cited by them. We find that in paragraphs mentioned supra, the trial Court has appreciated the controversy. Perusal of paragraph nos. 45, 70 and 71 as also paragraph no.72 reveals that after consideration of material on record, the trial Court found it impossible to hold anything against the acquitted persons.

11. Admittedly, respondent no.5 was not the occupant of the house. Similarly, except for the fact that respondent no.2 [mother-in-law] was staying in the house, there is no material on record to show that she had any role in or then any knowledge of the events which may have taken place on second floor of the house. Brother of convicted accused and wife of that brother have only carried son Adhiraj to their residence. Perusal of record shows that, the child was visiting and staying with them. In present appeal,

5

scope for interference is very narrow.

12. In this situation, we find no case made out warranting interference with the findings arrived. Leave is therefore, rejected. No costs.

JUDGE

JUDGE

Rgd.