

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

CRIMINAL APPLICATION (APPA) NO. 512/2016
IN CRIMINAL APPEAL NO. 181/2016.

Amol Mahadeo Mandade

-VERSUS-

State of Maharashtra.

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
& A.S. CHANDURKAR, JJ.

DATE : SEPTEMBER 29, 2016.

Heard Shri A. Manohar, learned Counsel
for the applicant/appellant, Shri S.S. Doifode, learned
A.P.P. for respondent no.1 and Shri R.R. Vyas, learned
Counsel assisting prosecution, for some time.

2. Submission is, CC TV footage has not been
proved as required by Section 65B of the Evidence Act,
and person who has given certificate at Exh.160, is not
a technical expert. That person, in certificate has not
spoken of any document. He speaks of system. His
employee – Shubham Padgilwar, has claimed that

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through that system the data has been loaded on C.Ds. and Pendrives. However, Shri Padgilwar has not given any certificate.

3. It is further contended that P.W.6 Vinay Dubey, on whom prosecution has placed reliance, does not speak about surname of Amol, whom he allegedly saw coming out of the Bar. His police statement is recorded belatedly and if time given therein is accepted, Shri Dubey was not near the place of incident at the relevant time. Expert witness who has analyzed the CC TV footage could not point out that the photographs of accused persons match with the CC TV footage.

4. There is no recovery from the applicant – Amol (accused no.4). Brother of the deceased examined to bring on record motive, does not name the applicant.

5. Learned A.P.P. submits that the expert who has viewed CC TV footage, has certified that frames selected of the CCTV Footage appear to be similar to the persons whose photographs were given for reference. Thus, according to the learned A.P.P. the identity of accused no.4 is established. He also states

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that P.W.6 Vinay has been relied upon by the trial Court and he has seen all the accused persons coming out from Seven Hill Bar, wherein the murder took place, immediately after the incidence. Some of them were also armed with weapons, which were then blood stained. Accused no.4 was one of them and he ran away from the spot with other accused persons.

6. After hearing the respective counsel, we find that while delivering judgment of conviction the learned Trial Court has looked into these aspects and found Amol guilty. Mere fact that surname of Amol is not spoken of or not mentioned by P.W.6 in his statement recorded under Section 161 is not sufficient to discard the entire material on record. Hence, we reject the present Criminal Application. However, hearing of Appeal is expedited.

JUDGE

JUDGE

Rgd.

CERTIFICATE

I certify that this judgment/order uploaded
is a true and correct copy of original signed
judgment/order.

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