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

CRIMINAL APPEAL NO.350 OF 2015
Narayan Shamrao Deshmukh
..vs..
Umesh Sheshrao Deshmukh and ors

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

Shri U.J. Deshpande, counsel for the Appellant.
Mrs. Nandita Tripathi, Addl.P.P. for R-4.

CORAM : B.P. DHARMADHIKARI & V.M. DESHPANDE, JJ.
DATED : JANUARY 18, 2016.

Heard learned counsel for the appellant Shri U.J. Deshpande and learned Addl.P.P. for respondent No.4/State.

The applicant before this Court is real brother of deceased Gita.

The real brother has moved this proceeding under Section 372 of the Criminal Procedure Code and learned counsel Shri U.J. Deshpande seeks leave to add a prayer seeking leave to file appeal. Learned Addl.P.P. for respondent No.4/State has no objection if the oral leave is granted. Necessary amendment be carried out immediately.

After hearing respective learned counsel for

the parties, we find that Gita on 12.7.2013 given a dyeing declaration in which she did not blame anybody. That dyeing declaration shows that it was only an accident. However, later two dyeing declarations recorded on 16.7.2013 show that she is blaming her mother-in-law and brother-in-law. Those are at Exhs.40 and 54.

The Trial Court has considered the entire material. It has noted that though in first dyeing declaration, recorded vide Exh.28, no allegations are made against in laws, the relatives of deceased of her maternal side had come up with a case of oral dyeing declaration on some day and in oral dyeing declaration it is claimed that she has pointed out real role played by mother-in-law and brother-in-law.

The Trial Court has found in the face of this that the relatives have not taken any steps and kept mum. This conduct on their part of keeping silence for over four days and dyeing declarations later recorded are then appreciated and the accused have been set free. Exh.40 recorded on 16.7.2013 is having toe mark indicating thereby that the victim was not in a position to sign while later dyeing declaration vide Exh.54 purports to bear her signature.

We do not see any jurisdictional error or perversity. A possible view has been reached. As such, no case is made out warranting any interference.

Leave declined.

JUDGE **JUDGE**

!! BRW !!