

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

CRIMINAL APPLICATION (BA) NO.966 OF 2016
(Sanjay Shamrao Wandile vs. State of Maharashtra)

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

Shri S. Borkar, Advocate for applicant.

Shri S.A. Ashirgade, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 05, 2016

This application is filed by accused involved in Crime No.104/2016 registered by Police Station, Girad, Taluq Samudrapur, District Wardha for the offence punishable under Section 302 of Indian Penal Code.

Shri Borkar, learned Counsel for applicant, submits that applicant is falsely implicated by complainant as his first wife Usha alias Lalita, after 11 years of separation, all of a sudden arrived along with illegitimate child and to have status of child legalised, was insisting applicant to provide her Aadhar card and other documents. However, applicant since in the meantime having married second wife, was not willing to provide any such document to deceased Usha and in the course of said incident, there took place quarrel between applicant and her in which she was assaulted by stick and she succumbed to injuries sustained by her. It is further submitted that applicant at no point of time had intended to commit murder of deceased Usha, who

was behind him to accept her son, who was in no way concerned with applicant and, therefore, applicant was not providing any document to deceased Usha and in that event, the incident took place.

In the background of submissions advanced as aforesaid, from the report lodged by Vijay, alleged son of applicant as stated by deceased Usha, he appears to have witnessed the incident of his deceased mother asking for Aadhar Card and School Leaving Certificate of applicant, which applicant was refusing to hand over to her and in the course of same incident, applicant assaulted her by stick and brick wherein she sustained injuries and fell down in the courtyard.

The contents of report as aforesaid are found materially corroborated by evidence of Sugandha Zade, who has seen applicant committing assault upon deceased Usha, who sustained bleeding injuries. Her statement is further found corroborated by the statement of Archana Bhagat. Though Archana Bhagat is not eye witness, she has stated that she learnt about involvement of applicant in this incident from Sugandha Zade.

From the post mortem report, contents of first information report about applicant committing assault by stick and brick are found corroborated as deceased Usha is found to have suffered multiple abrasions and bruises on lips and face having contusion. She is also stated to have sustained lacerated wounds on frontal part of scalp, right side of scalp and forearm over dorsal region and contusion over right side of chest.

All the injuries are stated to have been caused by hard and blunt object. From the statements of eye witnesses, applicant committing assault upon deceased Usha in the courtyard by sitting on her chest is established. In that view of the matter, there appears to be substantive evidence against applicant as cause of death is stated to be shock due to injury to lung caused by hard and blunt object.

In view of the facts as aforesaid, it appears that deceased Usha was behind applicant to provide documents to her to establish fact of her illegitimate son to be shown as son of applicant and applicant to do away with this, committed murder of his first wife Usha. In the circumstances, there appears no reason to allow this criminal application, However, considering the case of applicant as aforesaid, the trial needs to be expedited as per order below :

Criminal application is rejected. However, sessions trial, out of which present criminal application arises, is expedited. Learned trial Court, who is seized with the sessions trial, to make endeavour to decide the same within six months from the date of framing of charge. Needless to say that learned trial Court should not get influenced by the observations made in this order.

Registrar (Judicial) to forward copy of this order to the concerned trial Court.

JUDGE

khj