

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.1197 OF 2017

The State of Maharashtra

Applicant

Versus

01 Kalyan s/o Gopinath Dube,

02 Latabai w/o Gopinath Dube

Respondents

Mr.K.D.Mundhe, A.P.P. for the applicant.

Mr.V.M.Jaware, advocate for Respondents.

**CORAM : R.M.BORDE AND
A.M.DHAVAL, JJ.
DATE : 13th June, 2017.**

P.C. :

1 Heard learned A.P.P. for applicant-State.

2 This is an application presented by applicant-State seeking leave under Section 378(1)(b) of the Criminal Procedure Code to file an appeal against the judgment of acquittal passed by trial Court, acquitting respondent no.1-Kalyan for an offence punishable under Section 498A of I.P.C. as well as acquitting respondent no.2-Latabai for offences punishable under Sections 302 and 498A read with Section 34 of the Indian Penal Code.

3 So far as respondent no.1-Kalyan is concerned, he has been convicted for an offence punishable under Section 302 of I.P.C. and is sentenced to suffer imprisonment for life. So far as respondent no.2-Latabai is concerned, she is mother of accused no.1-Kalyan and mother-in-law of deceased.

4 In both the dying declarations, no role is attributed to accused no.2-Latabai, mother-in-law of deceased. The allegations in respect of commission of offence under Section 498A of the Indian Penal Code are quite vague and general in nature. On appreciation of evidence, the trial Court has recorded a finding that the charge under Section 498A has not been proved.

5 We do not find any perversity or error in the findings recorded by the trial Court. The view adopted by the trial Court is a possible view and as such, no interference is called for in the judgment and order passed by the trial Court directing acquittal of accused no.2 for offence punishable under Sections 302 and 498A read with Section 34 of the Indian Penal Code as well as directing acquittal of accused no.1-Kalyan for offence punishable under Section 498A of the Indian Penal Code. The application is devoid of substance and does not deserve to be considered.

6 The application, seeking leave to file appeal under Section 378(1) (b) of the Criminal Procedure, is rejected.

A.M.DHAVALÉ
JUDGE

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R.M.BORDE
JUDGE