

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.3007 OF 2017
IN CRIMINAL APPEAL NO.434 OF 2016**

...

BABAN S/O.DHONDIBA GADAPE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicant : Mr.V.P.Savant,
Advocate holding for Mr.A.D.Hande
APP for Respondent/State : Mrs.Dipali S.Jape
Advocate for respondent nos.2 to 6 :
Mr.K.A.Kale, Advocate holding for Mr.Rajendra
Deshmukh.

...

**CORAM: S.S.SHINDE &
MANGESH S.PATIL, JJ.**

DATE : 23.11.2017

ORDER:

1] Heard learned counsel appearing for the applicant, learned APP appearing for the respondent - State and learned counsel appearing for respondent nos.2 to 6.

2] We have carefully perused the averments in the application and the prayers made therein. So far as prayer in respect of the acquittal of the respondent nos.2 to 4 of the offence punishable under Section 306 r/w.

34 of the I.P.Code and acquittal of respondent nos.5 and 6 for the offence punishable under Section 304-B, 498-A, 306 r/w. 34 of the IPC is concerned, the said prayer can be considered at the instance of the victims. However, the prayer of the applicant for enhancement of sentence for the offence punishable under Section 304-B of the I.P. Code can only be considered at the instance of the State under Section 377 of the Criminal Procedure Code.

3] In that view of the matter, so far as acquittal of respondent nos.2 to 4 for the offence punishable under Section 306 of the I.P. Code and acquittal of respondent nos.5 and 6 for the offence punishable under Section 304-B, 498-A, 306 r/w.34 of the IPC is concerned, the application is allowed, and the same stands disposed of.

4] So far as prayer of the applicant for enhancement of the sentence under Section 304-B of the I.P. Code is concerned, the same will be considered at the time of hearing of the appeal filed by Nilkanth s/o.Nagorao Bhuse & two others. The application stands disposed of.

5] The registry to register the appeal.

6] Appeal is **admitted**. On admission, learned APP waives service of notice on behalf of respondent-State and Mr.M.A.Kale, Advocate holding for Mr.Rajendra Deshmukh waives service of notice on behalf of respondent no.2 to 6.

[MANGESH S.PATIL]
JUDGE

[S.S.SHINDE]
JUDGE