

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3952 OF 2015**

Janardhan Eknath Aatkale & Ors. ..Petitioners

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. Anant Vadgaonkar for the Petitioner
Mr. K.V.Saste, APP for the Respondent No.1-State.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 20TH MARCH, 2017**

P.C.

1. The challenge in this writ petition under Article 226 of the Constitution of India is confined to the action of the police of applying an offence punishable under Section 302 of the Indian Penal Code. We have perused the file of investigation. The learned APP states that the Investigating Officer will have to carry out further investigation by obtaining opinion of a specialist medical practitioner in the concerned field.

2. In the light of the aforesaid statement of the learned APP, this petition need not be kept pending and the same is disposed of by passing the following Order.

- i) The issue whether Section 302 of the Indian Penal Code can be applied to the facts of the case is kept open.
- ii) In the event the police want to file chargesheet against the Petitioners for the offence punishable under Section 302 of the Indian Penal Code, fifteen days advance notice in writing shall be given to the Petitioners at their address mentioned in the petition, to enable the Petitioners to adopt appropriate remedy, if any.
- iii) The Petition is disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)