

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

Criminal Application (Appa) No. 252 of 2016

(The State of Maharashtra...Vs...Suendra s/o. Gangadhar Wadaskar)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. N.B. Jawade, APP for appellant.
Mr. Dr. A. De, Counsel for respondents.

CORAM : ROHIT B. DEO, J.

DATE : 09.08.2017.

Heard.

This is an application by the State seeking leave to assail the judgment and order dated 19.12.2015 by learned Assistant Sessions Judge, Chandrapur, in Sessions Case No. 76 of 2014 by and under which the accused were acquitted of offence punishable under Sections 3, 4 of Dowry prohibition Act, 1961 and Sections 498-A, 306, 201 read with Section 34 of Indian Penal Code.

The learned Trial Court has disbelieved the dying declarations on record.

The prosecution examined the sister, brother, brother-in-law and father of the deceased in order to bring home charge under 498-A and 306 of Indian Penal Code. Their testimonies have not been accepted by the learned Trial Court on the ground that the testimony was not corroborated.

The difference between a related witness and interested witness is too well known to warrant a debate. It is not clear from the judgment of the Trial Court as to why testimonies of the family members of deceased were found unreliable or unbelievable. It is a settled legal position that if the testimony of a relative is otherwise credible, it would not be necessary to seek corroboration for its acceptance.

Mr. De argues, and rightly so that in so far as accused / respondent 2 to 5 are concerned, there does not appear to be any cogent evidence on record and to the extent they have been acquitted by the learned Trial

Court, I do not think that State has made out case for grant of leave to appeal.

However, in so far as, respondent 1 / accused 1 is concerned, it would be appropriate if this Court has a re-look at the evidence on record. Hence, the application is partly allowed and leave to appeal is granted restricted to respondent 1 / accused 1.

The appeal be registered.

Admit.

Place the appeal for final hearing in week commencing September 2017.

In the interregnum, record and proceedings be summoned.

Mr. De waive service for respondent no.1.

JUDGE

Belkhede, PA