

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3287 OF 2017

Kamlakar Pandharinath Belambe,
Age : 63 years, Occu. Pensioner,
R/o DSK Vishwa, Flat No. 307/D,
Dhayari Pune.

...Applicant

Versus

1] The State of Maharashtra,
2] Saurabh Shriram Nilange,
Age : 31 years,
3] Shriram Manohar Nilange,
Age : 59 years,
Both R/o Bajartal,
At Post Taluka Karjat,
Dist. Ahmednagar.

...Respondents

.....
Mr. G. K. Thigale (Naik), Advocate for Applicant.
Mr. A. A. Jagatkar, A. P. P. for Respondent No. 1-State.
.....

WITH
CRIMINAL APPLICATION NO. 4161 OF 2017

The State of Maharashtra, Through Police
Station Officer, Karjat Police Station,
Dist. Ahmednagar.

...Applicant

Versus

1] Saurabh Shriram Nilange,
Age : 31 years,
2] Shriram Manohar Nilange,

Age : 59 years,
Both R/o Bajartal,
At Post Taluka Karjat,
Dist. Ahmednagar.

...Respondents

.....
Mr. A. A. Jagatkar, A. P. P. for Applicant.
Mr. G. K. Thigale (Naik), Advocate for Respondents.
.....

**CORAM : T. V. NALAWADE &
SMT. VIBHA KANKANWADI, JJ.**
DATE : 01-11-2018.

JUDGMENT : (Per Shri T. V. Nalawade, J)

01. The first proceeding is filed by the father of the deceased and second proceeding is filed by the State. The first proceeding itself is treated as appeal against acquittal and the second proceeding is filed for grant of leave to file appeal against the Judgment and Order passed by the Additional Sessions Judge, Ahmednagar in Sessions Case No. 381 of 2014 dated 2.5.2017. Heard learned A. P. P. and learned Counsel appearing for the father of the deceased.

02. This Court has carefully gone through the evidence given before the learned Trial Court and the reasoning given by the Trial Court for giving decision of

acquittal. The deceased was the wife of respondent Sourabh and respondent Shriram is the father of Sourabh. On the day of incident the husband gave the report to police about the death of the deceased and on that basis AD was registered. Before the post mortem was conducted, it was reported that the deceased had committed suicide by hanging herself in the matrimonial house and by using odhani for that purpose. Odhani was shown to be tied with the hook which was fixed in the ceiling of the room. In AD report it was informed that both the respondents were present in the house on that day. Though, for some time they had left the house.

03. This Court has carefully gone through the medical evidence. In PM report the opinion was given that case was strangulation. Two pieces of odhani were recovered under the spot panchnama and it was informed by the accused that this odhani was used by the deceased. Doctor who conducted the PM examination has given opinion that odhani could not have been the ligature material which caused the ligature mark on the neck of the deceased. When there is such specific opinion of the doctor, in ordinary course, the Courts would accept the opinion. Further, the death took place due to strangulation and the report of aforesaid nature was given by the husband to the

Police which was apparently false. This Court has also seen spot panchnama. In view of the nature of material available as against both the accused and the provisions of Section 106, 114 of Evidence Act, this Court holds that there is good arguable case to State in the appeal. So the application of the State is allowed. Leave is granted to file appeal against both the respondents for the offences punishable under Sections 302, 203 and 34 of I. P. C. The appeal filed by the father of the deceased stands admitted for the same reasons. Both the appeals are admitted.

04. This Court has granted leave to State to file appeal. For the same reasons the appeal against State is also admitted. Comply the provisions of Section 390 of Cr. P. C. and compliance only in the state appeal may be made.

05. Send the record back to the Trial Court for preparation of paper book and with the paper book record is to be sent.

[SMT. VIBHA KANKANWADI]

JUDGE

[T. V. NALAWADE]

JUDGE

Dahibhate/-