

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.4 OF 2016
(FOR LEAVE TO FILE APPEAL)**

The State of Maharashtra Applicant

versus

Venkatesh Bandu Jadhav & Ors. ... Respondents

.....

- Mrs.M.M. Deshmukh, APP for the State/Applicant.
- Mr.Ranjeet H. Patil h/f Mr.Pankaj P. Deokar, Advocate for the Respondent Nos.1 to 3.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 27th JUNE, 2018.**

P.C. :

1. The State has preferred this Appeal being aggrieved by the Judgment and Order passed by the learned Sessions Judge, Kolhapur, in Sessions Case No.147/13, thereby acquitting the accused for the offences punishable u/s 498-A, 323, 302 r/w 34 of IPC.

2. Mrs.M.M. Deshmukh learned APP vehemently submits

that the learned Trial Judge has grossly erred in acquitting the accused. She submits that when the evidence is in nature of Dying Declaration, implicating the Respondent/Accused, the learned Trial Judge ought not to have acquitted the Accused.

3. The deceased Sarika was the wife of the Accused No.1. The Accused Nos.2 and 3 are the mother-in-law and father-in-law of the deceased. The prosecution case is that on 12/04/2013 at around 02.00 a.m. the accused had poured kerosene on her person and set her on fire.
4. The learned Trial Judge has perused the entire evidence. The Dying Declaration below Ex.37 has been recorded by P.W.8 Ramesh Sadashiv Shendage, Nayab Tahasildar. The another Dying Declaration, at Ex.45, came to be recorded by P.W.12 P.H.C. Rajaram Sadashiv Patil.
5. The learned Trial Judge on the perusal of the evidence found inconsistency in the Dying Declarations and found that if

both the Dying Declarations were considered together, then either of them was to be disbelieved. The learned Trial Judge further found that the history as given in the medico-legal papers while admitting the deceased in the hospital, was that the deceased suffered burns accidentally.

6. The learned Trial Judge further found that since written Dying Declarations were themselves not found to be reliable, it was not safe to rely on the oral Dying Declaration given to the father and the sister of the deceased, no perversity is noticed in the approach adopted by the learned Trial Judge to warrant interference.

7. The Application is therefore rejected.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)