

Sequeira

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

CRIMINAL APPLICATION NO. 1155 OF 2018

Sou.Kushalabai Bhairappa Kore	... Applicant
Vs.	
State of Maharashtra	... Respondent

**in
CRIMINAL APPEAL NO. 1026 OF 2017**

Bargalsiddha Dharmanna Padwale & Ors.	... Appellants
Vs.	
State of Maharashtra	... Respondent

**Along with
CRIMINAL APPLICATION NO. 1320 OF 2018
in
CRIMINAL APPLICATION NO. 1155 OF 2018**

Sangita Bansidha Deshmukh	... Intervener
<i>In the matter between</i>	
Sou.Kushalabai Bhairappa Kore	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.Ritesh Thobde a/w Mr.Sagar Tambe, for Applicant in Cri. Appln. No.1155 of 2018.

Ms.Meghna Ashok Gowalani, for Applicant in Cri. Appln. No.1320 of 2018.

Ms.S.V.Sonawane, APP, for State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.***

Date : September 3, 2018.

P.C. :

The Applicant-accused is convicted for the offence punishable under section 302 read with section 34 of the Indian Penal Code and is sentenced to suffer life imprisonment with fine and is also convicted for the offence punishable under section 498-A read with section 34 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for three years and fine, by the judgment and order dated 28 November 2017 passed by Additional Sessions Judge, Solapur in Sessions Case No.285 of 2014. Incident of murder of deceased Ashwini has taken place on 5 June 2014. The Applicant-Accused is grandmother-in-law of the deceased. Along with the Applicant-accused other four accused are also convicted for the same offences. Accused no.1 is the husband of the deceased and Accused Nos.2, 3, 4 are the in-laws. The deceased was found in 100 per cent burnt condition near bathroom of the house, on 5 June 2015. The same house as per the case of the prosecution belonged to the Applicant-accused, the grandmother of the husband of the deceased.

2 The learned counsel for the Applicant-accused has submitted that the Applicant was on bail throughout the trial. She is an old lady of 74 years. There is no concrete evidence against her to

prove the offence of murder. The learned counsel further pointed out the evidence of prosecution witness No.2 Sangita Deshmukh, who is mother of the deceased. The learned counsel has submitted that there is a material omission on the point of harassment in respect of the present Applicant-accused. He also referred to the evidence of Investigating Officer – Prakash Bapurao Raskar-PW.No.6 and has submitted that this omission on the point of demand and harassment is proved through the Investigating Officer in his cross-examination. The learned counsel has further submitted that the Applicant-accused is innocent and is convicted on circumstantial evidence hence, she is to be granted bail and her sentence is to be suspended.

3. The learned counsel for the Intervener the original complainant, and so also the learned prosecutor while opposing the Bail application have submitted that the Applicant-accused is the owner of the house where the deceased was found burnt. It is a clear case of harassment and bride burning. In the present application the prosecution has tendered evidence on the point of demand of money and the harassment at the hands of the Applicant-accused.

4. We have perused the evidence of P.W. No.2, so also the Investigating Officer and the documents which are placed on record. The submissions of the learned counsel for the Applicant-accused also submissions of the counsel of the Intervener and the learned APP are also taken into account. The Applicant-accused is an old lady of 74 years and though it is a bride burning case, it is entirely based on

circumstantial evidence. In view of these facts as well as the evidence before us, we are inclined to allow this application. We have also noted that the Applicant-accused was on bail throughout the trial. At this stage, she is 74 years old therefore, we allow these Applications with the following order -

- a. The application is allowed on the same terms and conditions, with fresh bail bond of the same amount.
- b. The order or sentence and conviction insofar as the present Applicant is concerned, is suspended.
- c. The Applicant is directed to be released on bail on the same terms and conditions.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)