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

CRIMINAL APPLICATION NO. 1253 OF 2018

IN

CRIMINAL APPEAL NO. 703 OF 2013

Santosh Namdeo Bhukan.

... Applicant.

V/s.

The State of Maharashtra.

... Respondent.

Mr. Sachin Deokar for the Applicant.

Ms. S.V. Sonawane, APP for the Respondent - State.

***CORAM : S.S. Shinde and
Mrs. Mridula Bhatkar, JJ.***

DATE : 18th September 2018.

P.C. :-

The Applicant is Appellant in aforementioned Criminal Appeal No. 703 of 2013. He was tried in Sessions Case No. 105 of 2011 before the Additional Sessions Judge, Pune. By judgment and order dated 24th May 2014, the Additional Sessions Judge, Pune convicted the Appellant. The operative part of the order passed by the Additional Sessions Judge, Pune in Sessions Case No. 105 of 2011 is reproduced herein below :-

“1. The accused Santosh Namdeo Bhukan is hereby convicted u/s. 235(2) of Cr.P.C. of the offence punishable under Section 364 of IPC and sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.10,000/-. In default of payment of fine, he is directed to undergo further R.I. for six months.

2. The accused Santosh Namdeo Bhukan is also convicted u/s. 235(2) of Cr.P.C. of the offence punishable under Section 302 of IPC and sentenced to suffer R.I. for life and to pay a fine of Rs.10,000/-. In default of payment of fine, he is directed to undergo further R.I. for six months.

3. The accused Santosh Namdeo Bhukan is further convicted u/s. 235(2) of Cr.P.C. of the offence punishable under Section 201 of IPC and sentenced to suffer R.I. for 7 years and to pay a fine of Rs.5,000/-. In default of payment of fine, he is directed to undergo further R.I. for three months.

4. All the sentences shall run concurrently.

5. The accused Santosh Bhukan in jail since his arrest on 26/08/2010 till the date. Subject to the provisions of Section 433-A of Cr.P.C., he is entitled to set off, as provided u/s. 428 of Cr.P.C.

6. If fine amount is released, then an amount of Rs.20,000/- be paid to daughter of deceased viz. Vaishnavi.

7. The muddemal property i.e. reddish-brown coloured cell phone of Nokia Company (Article 14) be returned to complainant Pandurang Shinde. The other

black coloured mobile phone of LG make (Article 13) be auctioned and its sale proceed be credited to Government.

8. The muddemal articles, clothes, being worthless, be destroyed after the period of appeal is over.

9. The accused is informed that he has right to prefer appeal against this judgment before Hon'ble High Court.

10. Certified copy of this judgment be given free-of-costs to accused, forthwith.”

2. Being aggrieved by the judgment and order dated 24th May 2014 passed by the Additional Sessions Judge, Pune in Sessions Case No. 105 of 2011, the Applicant/Appellant preferred the Appeal before this Court. Said Appeal was numbered as Criminal Appeal No. 703 of 2013. The Division Bench of this Court (Coram : P.V. Hardas and Dr. Shalini Phansalkar-Joshi, JJ.), on 12th February 2015, dismissed the Appeal filed by the Applicant/Appellant and confirmed the conviction and sentence of the Appellant – Santosh Namdeo Bhukan.

3. It appears that while dismissing the Appeal filed by the Appellant, the Division Bench of this Court (Coram :- P.V. Hardas and Dr. Shalini Phansalkar-Joshi, JJ.) in paragraph 1 made a reference to the conviction of the Appellant for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

According to the Applicant since this Court has considered the Appeal of his conviction for the offence punishable under Sections 302 and 201 of the Indian Penal Code and has not made it clear about his conviction for the offence punishable under Section 364 of the Indian Penal Code. He has preferred this application for clarification.

4. As already observed herein before, the Division Bench of this Court (Coram : P.V. Hardas and Dr. Shalini Phansalkar-Joshi, JJ.) has confirmed the judgment and order of the Additional Sessions Judge, Pune as it is apparent from the concluding part of the judgment and there is no slightest room for doubt that the conviction of the Appellant for the offence punishable under Section 364 of the Indian Penal Code stands confirmed. The aforementioned operative part of the order of Additional Sessions Judge, Pune has been confirmed by this Court. In that view of the matter, we do not think it necessary to issue any clarification. The judgment and order passed by the Division Bench of this Court (Coram : P.V.Hardas and Dr. Shalini Phansalkar-Joshi, JJ) has made it clear that by the said judgment, the Division Bench has confirmed the judgment and order which was assailed in Criminal Appeal No. 703 of 2013.

5. In the light of above, the Criminal Application stands disposed of.

(Mrs. Mridula Bhatkar, J.)

(S.S. Shinde, J.)