

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.114 OF 2017

State of Maharashtra

..Applicant

Vs.

Rajesh Ramawat Singh

..Respondent

Mrs. S. V. Sonawane, APP, for the Applicant State.

CORAM:-B.R.GAVAI & B. P. COLABAWALLA,JJ.

DATE :- JANUARY 11, 2018.

P. C.:

By way of present Application, the Applicant seeks leave to file the Appeal against the judgment and order passed by the learned Additional Sessions Judge dated 28th December, 2016 in Sessions Case No.585 of 2014.

2 It is the prosecution case that the deceased Santosh Asaram Shirsat was found strangulated in the truck of which he was driver. It is the prosecution case that accused Rajesh was working with him as a cleaner. The prosecution case was that the deceased was put to death by accused Rajesh.

3 After trying the accused for the offences punishable under Section 302 of the Indian Penal Code, the learned Trial Court acquitted the accused, hence the present application.

4 Mrs. Sonawane, the learned APP vehemently submits that the prosecution had proved incriminatory circumstances against the Respondent accused. She submits that the circumstances so proved would point out the needle only towards the accused. She, therefore, submits that the learned trial Judge has erred in acquitting the accused.

5 The case rests on circumstantial evidence. The law with regard to conviction on the basis of circumstantial evidence is very well crystallized. Firstly it is necessary for the prosecution to prove each and every incriminating circumstance beyond reasonable doubt. Secondly, the prosecution has to prove that the chain of circumstances so proved are so interlinked to each other that leads to no other conclusion than the guilt of the accused.

6 One of the incriminating circumstances on which the prosecution relied on was recovery of mobile from the accused

while he was arrested. However, the learned trial Judge found the said circumstance not to be incriminatory, as the prosecution has failed to prove that the mobile which was recovered from the accused belongs to the deceased.

7 The learned trial Judge has further found that the driving licence of the deceased was found in the pocket of the deceased when spot panchanama was done. However, the prosecution further showed a recovery of the very same driving licence from the accused on the basis of the memorandum under Section 27 of the Indian Evidence Act. The learned trial court found that such a recovery was farce.

8 In that view of the matter, it cannot be said that the view taken by the learned trial judge was perverse to warrant interference. The application is rejected.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)