

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

CRIMINAL APPLICATION NO. 400 OF 2017

Kaladevi Ghanshyam Verma ... Applicant

Versus

Sonal Jagdish Verma & Ors. ... Respondents

**WITH
CRIMINAL APPLICATION NO. 133 OF 2017**

The State of Maharashtra ... Applicant

Versus

Sonal Jagdish Verma & Ors. ... Respondents

Mr. V. J. Bhanushali for the Applicant in ALP No. 400 of 2017.

Mr. J. P. Yagnik, APP for Respondent – State in ALP No. 400 of 2017 and
for Applicant in ALS No. 133 of 2017.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.**

DATE : 20th JULY, 2018.

P.C.

. By way of both these Applications the State as well as original
Complainant are seeking leave to Appeal against the Judgment and Order
passed by the learned Additional Sessions Judge-7, Thane in Sessions Case
No. 255 of 2014, thereby acquitting the Accused for the offence punishable

under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code.

2. The Accused No.1 is wife of the deceased Jagdish @ Jaggu Varma. It is the case of the prosecution that the Accused No.2 was having a love affair with the Accused No.1 and as such to eliminate the deceased, who was coming in the way of their love affair, he has been murdered.

3. Mr. Yagnik, the learned APP as well as Mr. Bhanushali, the learned Counsel for original Complainant submit, that learned trial Judge has grossly erred in acquitting the Accused. It is submitted, that when the motive was established and when it was established that the deceased was found tied with iron chain and iron plate and when it was further established that the said iron chain and iron plate were purchased by the Respondents – Accused, the learned trial Judge ought to have convicted the Respondents – Accused.

4. The law on interference in a finding of acquittal is very well crystallized by the catena of Judgment of the Hon'ble Supreme Court. The Apex Court in the case of *Sharad Birdhichand Sarda Vs. State of Maharashtra* reported in *AIR 1984 SC 1622* has held that unless the prosecution proves each and every incriminating circumstance beyond

reasonable doubt and also establishes a chain of events which is so introvowen with each other, which leads to no other conclusion than the guilt of the accused order of conviction would not be tenable.

5. In the present case, it is submitted that the prosecution has established the circumstances of motive. It is further submitted that second circumstance is that the dead body was found tied with the iron chain and iron plate. It is submitted, that from the evidence of PW-1 Sachin Vasant Rao Saste and PW-2 Dilip Narhari Salunke, it is clear that said iron chain and plate was purchased by the Respondents – Accused. To a specific query as to whether there is any evidence on the last seen together, the learned Counsel for original Complainant states, that the deceased had left the house for morning walk and did not return. That by itself cannot be considered to be an evidence to show that the deceased had left along with Accused No.2.

6. We are of the considered view, that only on the basis of aforesaid circumstances the conviction in case of circumstantial evidence would not be tenable. As held by the Hon'ble Supreme Court, however, a grave suspicion be, it cannot take place of a proof beyond reasonable doubt.

7. In that view of the matter, it cannot be said that the view taken by the learned trial Judge is either perverse or impossible to warrant interference.

8. As such, the Criminal Applications are rejected and Appeals are dismissed.

[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]