

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

**CRIMINAL APPLICATION NO.138 OF 2017  
(For Leave to Appeal)**

**The State of Maharashtra  
Versus  
Sarvendra Biharilal Yadav**

**..Applicant**

**..Respondent**

**Mr. V. V. Gangurde, APP for the Applicant - State.  
None for the Respondent.**

**CORAM : B. R. GAVAI &  
SARANG V. KOTWAL, JJ.  
DATE : 9<sup>th</sup> AUGUST, 2018**

**P.C.**

**1]** The Applicant - State has approached this Court seeking leave to Appeal against the judgment and order dated 30<sup>th</sup> June 2017, thereby acquitting the accused for the offence punishable under Section 302, 498-A, 506(II) and 177 of the Indian Penal Code ("IPC" for short).

**2]** The prosecution case in brief as could be gathered from the material placed on record is thus :-

The deceased is wife of the Respondent – Accused. It is the prosecution case that the deceased was being ill-treated by the

Respondent – Accused. He used to consume liquor, beat her and abuse her. The deceased was therefore staying with her parents at Bhoisar. The Respondent - Accused went to Bhoisar. Upon his insistence, the deceased and her daughter were brought to his house at Vakola. At around 8:00 p.m., when the daughter was playing outside, the accused raised quarrel, abused and beat her. He took can of kerosene, poured it on her person and set her on fire.

3] The prosecution case basically rests on dying declarations given to PW-14 – Bhagwat Choudhari Exh.54 and PW-4 – Haribhau Kachare (Naib Tahsildar) below Exh.22.

4] The learned Trial Judge upon appreciation of the evidence of these witnesses and dying declarations, found that there were various inconsistencies in two dying declarations. Apart from that learned Trial Judge has further found that there were various discrepancies in the said dying declarations and as such, the said dying declarations could not be said to be cogent, truthful and reliable.

5] Perusal of the evidence as well as judgment of the

learned Trial Judge would not show that the view taken by the learned Trial Judge is either perverse or impossible to warrant interference. The Criminal Application is therefore rejected and the leave is refused.

Balaji  
Govindrao  
Panchal

Digitally signed by  
Balaji Govindrao  
Panchal  
Date: 2018.08.10  
16:04:42 +0530

**[SARANG V. KOTWAL, J.]**

**[B. R. GAVAI, J.]**