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

APPLICATION FOR LEAVE TO APPEAL (STATE) NO.130 OF 2016

The State of Maharashtra	..Appellant.
Versus	
Urmila Santosh Deshpande & Ors.	..Respondents

Mr. Deepak Thakre, Public Prosecutor for the Appellant/State.

Mr. U.R. Mankapure, Advocate for Respondent Nos. 1 to 3.

Mr. S.R. Ingawale, Advocate for Respondent No.4.

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

DATE: 8th JANUARY, 2018

P.C.:-

1] State has approached this Court, seeking leave to appeal against the Judgment and Order passed by the learned Additional Sessions Judge, Malshiras, District Solapur, in Sessions Case No.63 of 2010, thereby acquitting the respondents-accused of the offence punishable under Sections 498-A, 306, 304-B read with Section 34 of the Indian Penal Code.

2] The deceased was married to accused No.2 on 19/04/2009. It is the prosecution case that soon after her marriage, the accused who is

husband and his relatives started ill-treating the deceased. It is further prosecution case that on 8/10/2009, the first informant received a call from the deceased wherein she complained regarding ill-treatment. The first informant further received an information that the deceased was not traceable and, as such, came to Akhuj Police Station with his son on 17/12/2009 for inquiry, when they came to know from the Police that a dead body of unknown person was found. Thereafter, an FIR was lodged at the instance of the first informant that either the deceased had committed suicide or she was murdered by the accused persons.

3] After completion of the investigation, charge-sheet was filed against the respondents – original accused. The accused denied the crime. The defence of the accused was that, the dead body, which was found by the Police, was not that of the deceased.

4] At the conclusion of the trial, learned Sessions Judge found that, it was an admitted case that Shrutika, the daughter of the first informant, was five months' pregnant. It was further found from the evidence of medical expert that the dead body found by the Police, was not pregnant. The learned Trial Judge therefore found that the prosecution has even failed to prove that the dead body, which was found by the prosecution, was of the daughter of the first informant.

5] In so far as ill-treatment on account of non-fulfillment of the demand of dowry is concerned, the learned Trial Judge found that the

only evidence was of the relatives of the deceased and, as such, they were interested witnesses. The learned Trial Judge found that the prosecution had failed to prove even a single incident of ill-treatment to establish the said charge.

6] An interference in appeal against acquittal would be warranted only when finding of the learned Trial Judge acquitting the accused, is found to be either perverse or impossible. When the prosecution has failed to even establish that the dead body found by the Police was of the daughter of the first informant, viz. Shrutika and when such a finding is based upon evidence of expert, we do not notice any infirmity in the approach adopted by the learned Trial Judge.

7] Application is found to be without merit and, as such, the same is rejected.

(B. P. COLABAWALLA, J.)

(B. R. GAVAI, J.)