

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 3 OF 2019**

The State of Maharashtra

.....Applicant

Vs.

Rekha D. Bhoi & Anr.

....Respondents.

Ms. M.H. Mhatre, APP for the Applicant-State.
None for the Respondents.

**CORAM : A. S. OKA, AND
A. S. GADKARI, JJ.
DATE : 4th JANUARY, 2019.**

P.C.:-

Heard the learned APP in support of the Application for grant of leave to prefer an Appeal against the impugned Judgment and Order by which both the Respondents-accused were acquitted for the offences punishable under Sections 302 and 201 read with section 34 of the Indian Penal Code.

2 The first Respondent is the third wife of deceased. According to the prosecution case, she was having an affair with the second Respondent. The prosecution case is based only on the circumstantial evidence. P.W. 4-Tukaram, P.W.8-Arun and P.W. 10-Pravin were examined by the prosecution to prove circumstance of

illicit relations between the first Respondent and the second Respondent. The allegation is that the Respondents murdered Dnyaneshawar in the night of 9th January, 2013 by strangulation.

3 After having heard the learned APP and after perusing the notes of evidence as well as the impugned Judgment, we find that the view taken by the learned Additional Sessions Judge is certainly a possible view which could have been taken on the basis of evidence on record.

4 The learned Additional Sessions Judge after examination of evidence of aforesaid three witnesses found that there is no evidence of illicit relations between the first Respondent and the second Respondent. P.W. Nos. 8 and 9 in their statement recorded on the date of lodging of FIR did not state anything about illicit relationship. They stated so only in their supplementary statement subsequently recorded. In fact, the finding of fact is that there was absolutely no evidence adduced by the prosecution to prove the allegation of illicit relationship. The prosecution relied upon the statement recorded by the police at the instance of the Respondents under Section 27 of the Indian Evidence Act to show illicit relationship. Moreover, there was no evidence adduced to show that

the first Respondent was seen in the company of the second Respondent.

5 The Additional Sessions Judge held that the alleged motive of illicit relationship was not established by the prosecution.

6 We find that the view taken by the learned Additional Sessions Judge is well supported by the evidence and certainly a possible view which could have been taken. Hence no case is made out for grant of leave.

7 Application is accordingly rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)