

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

**CRIMINAL APPLICATION NO.86 OF 2019
FOR LEAVE TO APPEAL (STATE)**

The State of Maharashtra

...Applicant

vs.

Sunil Dattaram Pawar and Ors.

...Respondents

Ms. M. H. Mhatre, APP for the State.

Mr. Shreepad Murthy a/w Ms. Rima Oke i/b Mr. Abhishek Patil for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
SMT. SWAPNA S. JOSHI, JJ.**

DATE : 17/06/2019.

P.C.:

. State Government in this application under section 378(3) of Cr.P.C. seeks leave to challenge the judgment and order dated 20/10/2016 delivered by the Sessions Court, Ratnagiri in Sessions Case No.37/2014 acquitting respondents of offence punishable under section 302, 143, 147, 148, 323 read with 149 of IPC.

2. Learned APP submits that the deceased police officer gave two dying declarations on the same day and both are consistent with each other. The Trial Court has by relying upon other material attempted to show some contradictions therein. Our attention is invited to those dying declarations as also to application of mind by the Trial Court to evidence of PW-6- Smt. Pevekar.

3. We have perused material. Ms. Pevekar examined as PW-6 is the daughter of deceased. Her evidence brings on record the fact that deceased was not to recover any amount back from accused persons. Thus,

assertion in Exhibit 31 dying declaration that accused persons owed some amount to deceased and were not ready and willing to return it has been falsified by her.

4. The alleged incident has taken place at about 4.45 hours in the morning. The Trial Court has attempted to find out why deceased went to said place at such odd hours. Explanation by him in dying declarations that on earlier day he had received telephone call from accused persons inviting him to that place is found not substantiated.

5. CDR produced by prosecution also does not show presence of either deceased or accused persons at the time of alleged incident i.e. at the spot.

6. In this situation, we do not find any fault in application of mind by trial Court. Application is rejected. No costs.

(SMT. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)