

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLN FOR LEAVE TO APPEAL (STATE) NO. 96 OF 2019

The State of Maharashtra ... Applicant

Versus

Supriya Pundlik Dhonukshe ... Respondent

Mr.J.P. Yagnik, APP for the State.

Mr. Sachin Deokar for respondent no. 1.

CORAM : B.P. DHARMADHIKARI &
SANDEEP KASHINATH SHINDE, JJ.
DATE : SEPTEMBER 17, 2019

P.C.:

Heard.

The acquittal from offence under section 302, 504 IPC is questioned under section 378(4) Cr.P.C. by the State. The contention of the learned APP is though hands may have been burnt, the fact of obtaining of thumb impression in token of signature has come on record and it is more than sufficient.

2. Learned counsel for the accused points out that all other witnesses have not supported the prosecution. Only dying declaration on record is noted down by a policeman. After the incident dated 11/10/2014, the victim was alive till 14/10/2014. Thus after initial recording of dying declaration on 11/10/2014,

proper dying declaration through Special/Executive Magistrate could have been sought for.

3. With the assistance of the respective counsel, we have perused the papers. The evidence of PW 10 particularly paragraph 3 shows that both the hands of victim were totally burnt. In this situation, it is difficult to accept that the police constable or then the doctor attending the patient could have obtained thumb impression. The trial court has considered all these facts. The dying declaration could have been recorded by the Special/Executive Magistrate as there was ample time and if thumb impression was not possible, some other impression like impression of toe could have been obtained.

4. We find that the trial court has considered all the facts and has arrived at the possible view. No case is made out. Leave application is rejected.

(SANDEEP KASHINATH SHINDE, J.)

(B.P. DHARMADHIKARI, J.)