

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 15 OF 2019**

The State of Maharashtra

.....Applicant

Vs.

Anita Dhairyashil Patil

....Respondent.

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

None for the Respondent.

CORAM : A. S. OKA, AND

A. S. GADKARI, JJ.

DATE : 10th JANUARY, 2019.

P.C.:-

This is an Application under Section 378 (3) of the Code of Criminal Procedure for leave to file an Appeal against the Judgment and Order dated 5th May, 2017, passed by the learned Additional Sessions Judge, Pune in Sessions Case No. 210 of 2012, acquitting the Respondent from the offences punishable under Sections 302 and 394 of the Indian Penal Code.

2 Heard the learned APP. Perused the entire record.

3 It is the prosecution case that, on 8th December, 2011, between 1.30 p.m. to 2.30 p.m. the Respondent committed murder of Rohini K. Patil with the aid of a knife. The motive behind the crime is

stated to be robbery of gold ornaments of the deceased. The prosecution in support of its case, has examined 7 witnesses.

4 It is to be noted here that, as per the postmortem notes, the deceased had suffered 22 injuries including, contusions and abrasions. The final cause of death is “due to throttling”.

5 The evidence on record indicates that, the Respondent was inside the house of the deceased, when the neighbour heard screams of the deceased as '*save me, save me*'. The neighbours gathered at the door of the deceased and after a gap of about 15 minutes, it is alleged that, the Respondent came out of the said flat. It is to be noted here that, the evidence on record is silent about the fact that there were any blood-stains on the clothes of the deceased.

6 It is the defence of the Respondent that, when she was in the house of Rohini (deceased), a person had been there. She consumed '*Khichadi*' (a recipe made of a rice) and after eating it, she felt giddiness and when she gain consciousness, she found Rohini in injured condition and therefore, she opened the door and noticed that, the neighbours have gathered at the scene of offence. Her husband therefore, gave her water and took her to their house.

7 A minute perusal of evidence would indicate that, there is no direct connecting link between the alleged assault by the Respondent on Rohini (deceased) and her death. The evidence of Ms. Mayura Awasare, (P.W. No. 4), a nurse by profession, appears to be an exaggerated version as far as the finding of ornaments in a pouch concealed in the nicker of the Respondent and therefore, Trial Court has rightly disbelieved her evidence.

8 After perusing the entire evidence, we are of the opinion that the view expressed by the Trial Court is a reasonable and probable view in that facts and circumstances of the present case and therefore, we are not inclined to interfere with the impugned judgment and order. We find no merits in the Application.

Application is accordingly rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)