

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 994 OF 2019
IN
CRIMINAL APPEAL NO. 412 OF 2019***

Tushar Mahesh Saujani

... Applicant/ Accused

Vs

The State of Maharashtra

(At the instance of Virar Police Station) ... Respondent

Mr. Kiran Varma, Advocate for the Applicant.

Mr. H.J. Dedhia, Learned APP for State.

***CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE, JJ***
DATE : AUGUST 28th, 2019

P.C.:

1. Heard learned counsel for the applicant and Learned APP.
2. Report of the applicant demonstrates that there was dispute between the applicant and wife (PW1) and hence PW1 has deposed against him and painted a false picture. In so far as PW2 is concerned, the contention is PW2 was not present at the time of incident.

3. Learned counsel submits that child 'Hasti' was held in her arms by mother (PW1) and the child slipped down and due to fall, got injuries, which contributed to death.
4. Learned APP points out that narration of PW1 and PW2, both eye witnesses, consistently show snatching away of the child forcibly by accused from arms of PW1, holding her up by both legs and then trashing her on the ground.
5. We have perused the evidence. There is no suggestion given to PW1 about accidental fall of child. Similarly, there is no suggestion given to PW2 that PW2 has not or could not have witnessed the crime.
6. Without prejudice, learned counsel also attempted to urge that at the most Section 304(II) may become relevant.
7. We are not in position to appreciate this argument at this stage. No case is made out. Application is rejected.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)