

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 128 OF 2017

The State of Maharashtra. ... Applicant.
V/s.
Sangappa Chandrappa Chikkodi. ... Respondent.

Mr.V.V.Gangurde, APP for the applicant.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 11th January 2019.

P.C. :

This is an application under section 378(3) of the Code of Criminal Procedure, 1973 (for short "Cr.PC") for leave to prefer appeal against the Judgment and Order dated 9th December 2016 passed by the learned Additional Sessions Judge-2, Sangli in Sessions Case No.82/2012 acquitting the respondent from the offences punishable under sections 498-A and 302 of the Indian Penal Code (for short "IPC").

2. Heard the learned APP for the applicant- State. Perused the record.

3. The prosecution case is based on the circumstantial evidence. The deceased – Smt.Bharati was the wife of the respondent. It is the case of the prosecution that, due to matrimonial discord, Smt.Bharati had left her matrimonial house and had been to her parent's house prior to the date of incident. On 5th May 2012, Mallappa Soudi (P.W.3)- the brother

of the deceased dropped Smt.Bharati at her matrimonial house situated at Jadarboblad at about 10.00 a.m. when the accused was present in the house and Mallappa (P.W.3) requested the respondent- accused to treat his sister nicely and he left the house. When Mallappa (P.W.3) was proceeding to his native place, he received a phone call at Alaginal intimating him that his sister was murdered. He, therefore, along with other relatives rushed to the house of the respondent and found Smt.Bharati lying in a pool of blood in the bathroom. That Smt.Bharati had received various injuries on her person and an axe was also lying near the dead body. After investigation, the Police submitted charge-sheet. The prosecution in support of its case has examined in all ten witnesses.

4. We have minutely perused the evidence on record. The evidence on record indicates that when the brother of the deceased i.e. Mallappa (P.W.3) dropped his sister i.e. deceased Smt.Bharati at her matrimonial house on 5th May 2012 at about 10.00 a.m., at that relevant time the respondent- accused was not present there. The evidence further indicates that the seizure of clothes of the respondent allegedly having blood stains was effected in contravention of settled principles of law. There is no legally admissible evidence available on record to connect the respondent with the present crime.

5. After perusal of the entire record, we are of the considered opinion that, the view adopted by the trial Court is a reasonable and probable view in the facts and circumstances of the present case.

We find no merits in the present application.

Application for leave to prefer appeal is, accordingly, rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)