

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 102 OF 2018

The State of Maharashtra. ... Applicant.
V/s.
1. Krishananshu Jangbahadur Sharma,
2. Ashish Jagdamba Prasad Pande. ... Respondents.

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

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

DATE : 13th February 2019.

P.C. :

The applicant- State has sought leave to prefer an appeal against the Judgment and Order dated 2nd May 2016 passed by the learned Additional Sessions Judge, Greater Mumbai in Sessions Case No.436 of 2012, acquitting the respondents for the offences punishable under sections 302 and 201 read with 34 of Indian Penal Code (for short "IPC").

2. Heard the learned APP for the applicant-State. Perused the record including notes of evidence.

3. It is the prosecution case that on 25th February 2015 or earlier thereto, the respondents in furtherance of their common intention and with the assistance of a juvenile accused committed murder of Smt.Sunita

Singh in flat No.1702, Mohit Heights, Lokhandwala Road, Andheri (West), Mumbai.

The evidence on record is silent about the fact of establishment of identify of dead body which was found at the scene of offence to be of Smt.Sunita Singh. The evidence of PW8, PW11 and PW12 examined by the prosecution is silent about the said fact. It has come on record that as a matter of fact, the said witnesses were never shown the dead body of Smt.Sunita Singh.

As the identity of the dead body of the deceased alleged to have been murdered by the respondents has not been established by the prosecution beyond reasonable doubt, the trial Court has recorded a finding of acquittal in favour of the respondents.

4. After perusing the entire record, this Court is 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.

No case for grant of leave to file appeal is made out.

The application is, accordingly, rejected.

(A.S.GADKARI, J.)

(A.S.OKA, J.)