

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.131/2018
IN CRIMINAL APPEAL NO.56/2018

Pandu Dunga Atram and others

Vs.

The State of Maharashtra

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

Shri S.V.Sirpurkar, Advocate, for petitioner.

Mrs. Geeta Tiwari, AGP for respondent.

**CORAM : SUNIL B. SHUKRE &
 PUSHPA V. GANEDIWALA, JJ.**

DATED : 25.04.2019

Heard.

On considering the evidence of prosecution witnesses, we find that there are some important links which are missing in the present case.

The informant is the wife or the widow of the deceased Munshi Atram. She has been examined as prosecution witness no.2. According to her version, she was an eye witness of the whole incident. She also maintains that she witnessed the incident, in which her husband was subjected to severe beating by all the accused persons on the ground that her husband was branded by the accused persons as a sorcerer. She also states that her husband was dragged by all the accused to nullah and then he was thrown into the nullah and beaten by stones by the accused persons and then she says that she followed the accused persons and even went to the nullah. But, she has

not informed the police immediately after the incident, especially after her husband had sustained injuries and also having been thrown into the nullah. She has also not made any effort for giving the medical treatment or aid to her injured husband. On the contrary, she has admittedly filed a report with police on 16.08.2016, a day after the incident. No explanation for her such a conduct, which *prima-facie* appears to be bizarre, has been offered by this witness or any other prosecution witnesses. It is also not known as to in what circumstances, the police learnt about lying of dead body of Munshi Atram in the nullah and what prompted them to go to the nullah and recover the dead body. These are the missing links in this case which, *prima-facie*, create doubt about the prosecution story. Therefore, we are inclined to allow this application.

The application is allowed subject to the condition that on applicants depositing the fine amount, substantive sentences of imprisonment awarded to them are hereby suspended till final disposal of the appeal and till that time, they are directed to be released on bail on their furnishing PR Bond of Rs.30,000/- each with one surety each in the like amount. Also, on a condition that the accused persons shall remain present before this Court as and when required.

The application is disposed of accordingly.

JUDGE

JUDGE