

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

CRIMINAL APPLICATION (APPA) NO. 459 OF 2019
IN CRIMINAL APPEAL NO.336 OF 2019
(Archana Ganesh Dhakane vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri S. Singha, Advocate h/f Shri P.B. Patil, Advocate for
applicant/appellant.

Shri M.K. Pathan, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH AND
 PUSHPA V. GANEDIWALA, JJ.

DATED : JULY 2, 2019

Shri Singha, learned Counsel for applicant,
has placed on record paragraph 20 of evidence of P.W.4
Dr. Imran Sherjama as same remained to be
incorporated in the earlier copy of his deposition placed
on record. Copy of same is also supplied to learned
Additional Public Prosecutor for respondent.

The applicant, who is accused no.1, came
to be convicted for the offences punishable under
Sections 302 and 201 of Indian Penal Code and
sentenced to suffer life imprisonment and to pay a fine of
Rs.5000/- and in default, to suffer rigorous
imprisonment for one year for the offence punishable
under Section 302 of Indian Penal Code and to suffer
simple imprisonment for one year and to pay fine of
Rs.500/- and in default, to suffer simple imprisonment

for one month for the offence punishable under Section 201 of Indian Penal Code vide judgment dated 8/4/2019 passed by learned Principal Sessions Judge, Buldana in Sessions Case No.7/2017. It is the case of prosecution that applicant had illicit relations with accused no.2 Vishnu, who was cousin of deceased Ganesh and, therefore, applicant along with accused no.2 had done away with her husband Ganesh by causing his death by strangulation and had screened the evidence by throwing his dead body in the water tank situated in her residential premises.

Shri Singha, learned Counsel for applicant, by referring to the evidence of complainant, has submitted that though in his report he had stated as per case of prosecution as above, his oral evidence is too short to connect applicant with the crime as in his evidence, there is absolutely no corroboration to the contents of the report establishing any illicit relations between accused no.2 and applicant. It is, therefore, contended that motive which is put forth by the prosecution is not established at all. It is further contended that except for evidence of complainant, there is nothing to establish applicant's involvement in the present case except for her being wife of deceased Ganesh and as such, she was naturally staying with him on the day of incident. It is, therefore, prayed that application be allowed by imposing suitable conditions on the applicant, who was on bail and has minor children to look after and since applicant is in custody, there is no one to take care of them.

Evidence of P.W.1 Kisan, father of deceased Ganesh, when perused, substantiates the submissions advanced as aforesaid as from his evidence it has come on record that applicant is wife of deceased Ganesh and after their marriage, they were residing separately in their agricultural land. He has further deposed that on one day one Sandip Sanap informed him that dead body of his son was lying in a water tank and accordingly he visited the spot and with the assistance of Sandip Sanap, removed it from tank and informed said fact to Police, upon which accidental death (marg) was registered. It is further deposed by complainant that on the following day, he lodged report, which is marked as Exh. 27. However, his evidence is totally silent with regards to various other aspects, which are stated in his report (Exh. 27), except stating that since applicant was with deceased on the day of incident in their house and since his son died in the house, he suspected applicant's involvement in the present crime. The complainant, therefore, appears to have not even doubted applicant to have committed murder of deceased Ganesh, having illicit relations with co-accused, who is cousin brother of deceased Ganesh.

In that view of the matter and except for evidence of complainant, since nothing could be pointed out by learned Additional Public Prosecutor, which can be considered against applicant, we find no reason to keep applicant behind bar pending appeal. In that view of the matter, following order :

The applicant shall be released on bail on her executing P.R. bond in the sum of Rs.50,000/- with one surety in the like amount. The applicant shall mark her presence with Police Station, Andhera, District Buldana once in a month initially for six months and thereafter on the first day of every quarter pending appeal.

The application is accordingly allowed.

JUDGE

JUDGE

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