

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

CRIMINAL APPLICATION (APPA) NO.577 OF 2017

IN

CRIMINAL APPEAL NO. OF 2017

(State of Maharashtra, through PSO, Nandura PS, Buldhana ..vs.. Abdul Kalim Mohd. Saheb and others)

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

Court's or Judge's orders

Shri G.Y. Ghurde, Addl.P.P. for the applicant,
Shri V.R. Deshpande, Counsel for respondent Nos.1 to 4.

CORAM : P.N. DESHMUKH AND
ROHIT B. DEO, JJ.

DATED : 12-02-2019

Heard Shri G.Y. Ghurde, learned Additional Public Prosecutor for applicant and Shri V.R. Deshpande, learned Counsel for respondent Nos.1 to 4.

2. This is an appeal against judgment and order dated 07-4-2017 passed by learned Additional Sessions Judge, Malkapur in Sessions Trial No.28/2015 whereby respondent Nos.1 to 4 came to be acquitted of the offences punishable under Sections 302, 498-A, 304-B, 201 read with Section 34 of the Indian Penal Code and Sections 3(1) and 4 of the Dowry Prohibition Act. It appears to be the case of prosecution that deceased was married in the year 2013 to respondent No.1 who died within two years of her marriage of unnatural death. From the evidence of informant-Sk. Usman Gani, father of deceased, there are allegations of her being subjected

to harassment and ill-treatment at the hands of respondents within short time after her marriage with respondent No.1. It further appears to be the case of prosecution that immediately after the incident, the informant visited the spot and noticed ligature mark of rope around the neck of deceased and thus suspected case of strangulation for non-fulfillment of monetary demand.

3. On the earlier date, having considering the evidence of PW 7-Dr. Meenal Rajput, we have directed to place on record certified copy of spot panchanama. Said document is tendered at bar. It is found that even after considering the spot panchanama where there is reference of one cot lying at the room where the incident took place, that by itself cannot be considered at this stage as the entire evidence has to be evaluated for seeking conclusion on this aspect. It appears to be the case of defence that the ligature mark was due to deceased since fell down while attempting to put clothes for drying on a nylon rope and in that event got accidentally injured resulting into her death due to strangulation.

4. In the circumstances, we find that case is made out for grant of leave as prayed for. Application is allowed.

Criminal Appeal No. ____/2019.

Heard.

2. **Admit.**

3. Call record and proceedings.

4. Shri V.R. Deshpande, learned Counsel waives notice for respondent Nos.1 to 4.

5. On preparation of paper-book, appeal be shown in the caption of final hearing matters.

JUDGE

JUDGE

adgokar