

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

CRIMINAL APPEAL NO. 334/2020

(Kashinath A. Chavhan vs. State of Maharashtra & anr.)

WITH

CRIMINAL APPEAL NO. 371/2020

(Anil B. Chavhan vs. State of Maharashtra & anr.)

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

Court's or Judge's orders

Shri R.J. Shinde, Advocate for the appellant(s)
Shri M.K. Pathan, APP for the respondent/State

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : 28/10/2020

1] First information report came to be registered against the appellants and Nabhibai A. Chavhan for the offences punishable under Sections 302, 201 and 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Kashinath A. Chavhan (appellant in Criminal Appeal No. 334/2020) is the son of Anil B. Chavhan (appellant in Criminal Appeal No. 371/2020). The co-accused – Nabhibai is the wife of Anil B. Chavhan (appellant in Criminal Appeal No. 371/2020) and mother of Kashinath A. Chavhan (appellant in Criminal Appeal No. 334/2020).

2] The appellants in both these appeals are in jail since 30/08/2018. The applications filed by the appellants under Section 439 of the Code of Criminal Procedure are rejected by the Sessions Court and hence these appeals are filed.

3] The appellants relied on the fact that this Court has allowed Criminal Appeal No. 287/2019 and has directed the respondent no. 1 – State to release the co-accused – Nabhibai A. Chavhan on bail. According to the appellants, there is no eye witness and the case of the prosecution is based on circumstantial evidence which is not sufficient to implicate the appellants.

4] During the course of hearing, learned advocate for the appellants submitted that the appellants had earlier filed applications under Section 439 of the Code of Criminal Procedure which were rejected by the Sessions Court. It is stated that the appellants had not challenged the rejection of their earlier applications, and after lapse of some time and because of the pandemic situation, the appellants had again filed applications under Section 439 of the Code of Criminal Procedure before the Sessions Court, which are rejected by the impugned order.

5] Learned APP pointed out the material on record specially CDR's and submitted that this evidence shows that the victim was in touch with the accused – Anil B. Chavhan (appellant in Criminal Appeal No. 371/2020). The prosecution further relies on the statement of Sau. Anita Kamble (daughter-in-law of the deceased) which is to the effect that one day prior to the discovery of dead body of the victim, the victim had told Anita that she was going to Village Upawanwadi to get back the amount of loan given to Anil B. Chavhan (appellant in Criminal Appeal No. 371/2020). Learned APP has further pointed out that while considering Criminal Appeal No. 287/2019 filed by Nabhibai A. Chavhan,

this Court has recorded that the material evidence was not produced by the prosecution to show the involvement of Nabhibai directly. It is further submitted that the fact that Nabhibai was a lady weighed with the Court while considering her appeal.

6] After examining the rival submissions and the material on record, we are of the view that the impugned order is based, prima-facie, on proper consideration of the material on record and does not require any interference.

7] Hence, the criminal appeals are **dismissed**.

CRIMINAL APPLICATION (APPA) NO. 390/2020

8] In view of the dismissal of the Criminal Appeals, this application praying for grant of time to file the certified copy of order dated 27/07/2020 does not survive. It is **disposed** accordingly.

JUDGE

JUDGE