

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

CRIMINAL APPLICATION (APPA) NO. 886/2019
IN
CRIMINAL APPEAL NO. /2020

State

..VS..

Rushikesh P. Gadmade & anr.

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

Court's or Judge's orders

Shri T.A. Mirza, APP for the applicant/appellant
Shri Atharva S. Manohar, Advocate for the non-applicant/respondents

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
DATED : 15/12/2020

1] Heard.

2] Learned APP has pointed out that though there is ample evidence on record establishing the chain of circumstances, learned Sessions Judge has recorded the finding of acquittal of the respondents – accused mainly on the ground that the evidence on record show that proximity of time gap between the incident and the discovery of body of the victim is of about 18 hours and there is delay in recording the statements of the witnesses.

3] Learned advocate for the respondents – accused submitted that it is not only the question of delay in recording of statements but the statements are recorded after the arrest of both the accused. He further submitted that there are material omissions in the evidence and statements of Mayur Manoj Raichura – PW 5.

4] We have gone through the evidence of Mayur Manoj Raichura – PW 5 and the impugned judgment specially para no. 26 of it. We are of the view that the matter requires consideration.

5] Hence, leave to file appeal is granted.

6] The criminal application is **allowed** accordingly.

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7] Taken up for hearing on admission.

8] **ADMIT.**

9] Shri Atharva S. Manohar, Advocate waives notice for the respondents.

10] Action be taken as per Section 390 of the Code of Criminal Procedure.

11] The respondent no. 1 – Rushikesh Purushottam Gadmade and respondent no. 2 – Yash Dilip Chetwani shall remain present before this Court on the next date of hearing.

12] List the appeal for final hearing on 07/01/2021.

JUDGE

JUDGE