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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3 OF 2021
(For Leave to Appeal)
CRIMINAL APPEAL NO..... OF

The State of Maharashtra] .. Applicant

vs.

Vishal Balasaheb @ Parshuram Sakhare] .. Respondent

Mr.Arfa Sait, APP for State-Applicant.

Mr.Abhishek Avachat, for Respondent.

**CORAM : PRASANNA B. VARALE &
N.R.BORKAR, JJ.**

DATE : 22ND JULY, 2021

P.C.

1] Heard learned APP for State and learned counsel for the respondent. The respondent was charged for the offence punishable under Section 302 of the Indian Penal Code. It was the case of the prosecution before the trial Court that the accused was addicted to liquor and bad vices. The accused and his father sold their agricultural land and an amount of Rs.51 Lacs was deposited in the account of the accused. The accused had spent the said amount for fulfilling his bad

vices. Thereafter, the accused started demanding money from the parents and his wife. He was insisting his wife to give money deposited in her account. Due to refusal, the accused committed murder of his wife by assaulting her with laptop and throttling her neck.

2] Learned APP submits that the trial Court as regards death of the deceased held it to be homicidal. The prosecution to prove that the accused is the author of the crime, has examined, his daughter who was eye witness to the incident. The trial Court, however, discarded her evidence for no valid reasons. It is submitted that the learned trial Court failed to appreciate another material evidence on record in the form of injury caused to PW-6, father of the accused. The injury to PW 6 was result of a scuffle between the accused and PW 6.

3] Thus, sum and substance of submission of the learned APP is that the trial Court failed to appreciate the evidence of prosecution in proper perspective and arrived at a erroneous conclusion.

4] Learned counsel for respondent, while opposing the submission of the learned APP submits that no error is committed by the learned trial Court in appreciating the evidence.

5] We have gone through the evidence on record i.e. oral testimony of witnesses and defense of the accused. Prima-facie the explanation given by the accused in his defense does not appear to be probable. In our opinion, the matter thus requires consideration by this Court. Hence, order :

- I] Application is allowed.
- ii] Leave is granted.
- iii] Appeal is admitted.
- iv] Call for Record and Proceedings.
- v] Action be initiated under Section 390 of the Cr.P.C. against the respondent.

[N.R.BORKAR, J]

[PRASANNA B. VARALE, J]