

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

CRIMINAL APPLICATION (APPA) NO. 237 OF 2021
IN
CRIMINAL APPEAL NO. OF 2021

The State of Maharashtra

Vs.

Umendra S/o Kanhaiyalal Chaudhari

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.

Shri R.M. Daga, Advocate for the non-applicant.

CORAM : V.M.DESHPANDE AND
AMIT BORKAR, JJ.

DATE : 14th JUNE, 2021.

1. Hearing was conducted through Video Conferencing and learned counsel agreed that the audio and visual quality were proper.

2. This is an application for leave to file appeal. The application is moved by State through learned Additional Public Prosecutor. The prosecution is seeking leave to file appeal since the State is aggrieved by the judgment and order of acquittal passed by learned Sessions Judge, Gondia in Sessions Case No. 94 of 2015 on 29.11.2019, whereby the learned Judge acquitted the respondent/original accused for the offences

punishable under Sections 302, 323, 498-A and 504 of the Indian Penal Code.

3. We have heard learned Additional Public Prosecutor Shri T.A. Mirza for the applicant/State and Shri R.M. Daga, learned counsel for the respondent. We have also perused notes of evidence and the post mortem report (Exh.42).

3. Deceased Durglata was wife of the respondent. Their marriage took place in the year 2007 and Durglata was found in dead condition in her matrimonial house on 13.09.2015. The post mortem report (Exh.42) would show that the autopsy surgeon found rigor-mortis though poorly around the neck. This aspect is not properly considered by the learned Sessions Judge while considering the circumstances and the findings of the Atopsy Surgeon that the death was caused due to asphyxia due to throttling.

4. In our view, the judgment of acquittal needs relook in the light of prosecution evidence and the documents which are duly proved by the prosecution during the trial.

5. In view of the above, the criminal application is allowed. Leave is granted to State to file the appeal against the judgment and order of acquittal.

The Criminal Application is disposed of.

CRIMINAL APPEAL No. /2021

1. Heard.
2. Admit. Learned counsel waives services for the respondent.
3. Action under Section 390 be taken against the respondent.
4. Learned Judge below before whom the respondent will be brought or appears on his own is directed to release the respondent on the executing a P.R. Bond of Rs.25,000/- with one solvent surety of the like amount.
5. At this stage, learned counsel Shri R.M. Daga for the respondent would submit that the respondent is working as a compounder in Green City Hospital, Nagpur, which falls within the jurisdiction of Dhantoli Police Station, Nagpur.
6. Until further orders, the respondent shall mark his presence at Dhantoli Police Station, Nagpur once in six months.

JUDGE**JUDGE**