

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE
NO.62 OF 2018

THE STATE OF MAHARASHTRA
VERSUS
BALAJI DNYANDEO YETHEKAR AND OTHERS

...
Ms. P.V. Diggikar, A.P.P. for Appillicant.
...

CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : 4th JANUARY, 2023

ORDER :

1. Heard learned APP. What could be gathered from the record is that the accidental death was reported and thereafter, after the inquest panchnama, the postmortem was performed. The probable cause of death has been given as, "due to 100% burn superficial to deep". The deceased got married to respondent No.1 about eight months prior to the date of incident. Prosecution has examined in all eight witnesses to bring home the guilt of the accused. Learned APP submits that the learned Additional Sessions Judge, Ahmednagar has not

appreciated the evidence properly. There is substantial evidence in the form of deposition of father of the deceased, that the deceased was subjected to cruelty and on the earlier day of the incident there were talks between them. There was illegal demand of an amount of Rupees One Lakh and in spite of the evidence, presumption has not been invoked.

2. It will not be out of place to mention here that the Appeal preferred under Section 372 of the Code of Criminal Procedure by the informant has been admitted.

3. Matter needs re-appreciation as the points are made. Hence, following order:-

ORDER

(I) Application stands allowed.

(II) Leave is granted to the prosecution to file Appeal.

(III) Registry to register the Appeal.

(IV) Appeal stands Admitted.

(V) In Appeal, issue notice to the respondents, to be made returnable on 10th February 2023.

(VI) Compliance under Section 390 of the Code of Criminal Procedure be made before the learned Additional Sessions Judge, Ahmednagar. Respondents be released on bail till the conclusion of present Appeal upon such terms and conditions as be deemed fit by the concerned trial Judge.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/JAN23