



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

910 APPLN. FOR LEAVE TO APPEAL BY STATE NO. 28 OF 2019

The State of Maharashtra

....Appellant

**VERSUS**

Bharat S/o. Tarachand Pawar and Ors.

.....Respondents

Ms. U. S. Bhosle, APP for the Appellant

**CORAM : R.G. AVACHAT &  
NEERAJ P. DHOTE, JJ.**

**DATE : 02.02.2024**

**PER COURT :**

1. Leave to add the Victim as a Party Respondent.
2. Learned APP appearing for the Appellant tenders across the bar a report from the concerned Jail, stating that the acquitted Respondent No.1 – Bharat Tarachand Pawar died on 26/07/2020. The said report is taken on record and marked as ‘X-1’ for the identification.
3. The State is permitted to delete Respondent No.1 from the papers of this Appeal since the Appeal stands abated against the said Respondent No.1.
4. This is an Application for leave to Appeal by the State against the Judgment and Order dated 02/11/2018 passed by the learned Additional Sessions Judge, Beed, in Sessions Case No.34/2017 acquitting the Respondent Nos.2 to 4 for the offences punishable under Sections 302, 309, 498(A) and 304(B) read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

5. Heard the learned APP for the Appellant / State. Perused the papers on record.

6. The following observations are made by the learned Trial Court, which are reproduced below:

*“51. So far as the role of accused No. 2 to 4 is concerned, it has come in the evidence of Badrinarayan (PW-11) that when 2,3 boys came in the hotel to call accused No. 2 he was present in the hotel and thereafter accused No. 2 took his vehicle to the place of incident and carried deceased and accused No. 1 to the hospital. As such there is no evidence against accused No. 2. Similarly there is no evidence against accused No. 3 and 4. That apart the accused No. 3 and 4 claims that they are residing separately and in support of their plea they relied on ration card. Even allegation of ill-treatment and harassment for demand of Rs.2,00,000/- is concerned, the evidence is found against accused No. 1 only. There is no specific evidence against accused No. 2 to 4. As such there is vacuum in the evidence of prosecution as to the role attributed to the accused No. 2 to 4 and no criminal liability can be fastened against them”.*

7. It is clear from the papers on record that the Respondent Nos.2 to 4 were not residing with the deceased. We do not find any infirmity in the impugned Judgment and Order and no merit in the Application for leave to Appeal by State. Hence, we proceed to pass the following order:

#### **ORDER**

(I) The Application for leave to Appeal by State stands dismissed.

**[NEERAJ P. DHOTE, J.]**

**[R.G. AVACHAT, J.]**

Sameer