



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 49 OF 2019

State of Maharashtra

..APPLICANT

VERSUS

Saka Surji Gavit

..RESPONDENT

....
Mr. S.D. Ghayal, Addl.P.P. for applicant - State

....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 30th AUGUST, 2024

PER COURT :

1. This is an application for leave to appeal by State against judgment and order dated 27th September, 2018 passed by Sessions Judge, Nandurbar in Sessions Case No. 28 of 2017 acquitting the respondent for the offence punishable under Sections 302 and 397 of the Indian Penal Code.

2. The case is based on circumstantial evidence. One of the circumstances pointed out by learned A.P.P. against the respondent is of last seen. The evidence of P.W.9 – Pramilabai Gavit shows that she was working in one temple. On 08th June, 2017 the deceased had come to the temple and met her. The deceased had informed her that she was going with Saka i.e. the respondent and after she tied thread to deceased, the deceased left. There is also evidence of P.W.14 – Hadubhai Pawar, who was a religious

priest. His evidence shows that he knew the respondent/accused – Saka and also the deceased. His evidence further shows that the deceased and the respondent both had come to his house on 08th June, 2017 in the afternoon. The said witness tied a thread to the hands of the deceased and thereafter the respondent and deceased left his place together. Evidence on record goes to show that dead body of the deceased was found at one field at Varhadipada, Tq. Navapur Dist. Nandurbar on the very next day in the morning at 09:00. The evidence on record goes to show that two pocket diaries, having phone numbers of the persons known to the respondents, were found at the spot of the incident. There is further evidence in respect of discovery under Section 27 of the Evidence Act of silver ornaments of the deceased and knife, at the instance of the respondent. Human blood was found on the clothes of the respondent and also on the knife, which was seized at his instance.

3. In view of above, in our considered view, there is sufficient material to grant leave to the State. Hence, the following order :-

Application for leave to appeal by State is allowed. Section 390 of the Code of Criminal Procedure shall follow. The trial Court to do the needful. Call Record and Proceedings with Paper-book.

(NEERAJ P. DHOTE, J.)

SSD

(R.G. AVACHAT, J.)