



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 235 OF 2019

The State Of Maharashtra
VERSUS
Ananda S/o. Gangaram Dhanore And Others

.....
Mr. R.B. Dhaware, APP for Applicant – State
Mr. V.D. Gunale, Advocate for Respondents
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 09th SEPTEMBER, 2024

ORDER :

1. Being aggrieved by the judgment and order of acquittal passed by the learned Judicial Magistrate, First Class in S.C.C. No.1300 of 2009, the State has preferred this appeal under section 378(1)(b) of the Code of Criminal Procedure against acquittal.

2. Heard learned advocate for applicant – State and learned advocate for respondents – accused. Perused the documents placed on record.

3. Prosecution case in short is that, on 29.09.2009 Madhav Bichkunde lodged a report with Police Station Mukhed stating that he has two sons namely, Shivaji and Shivkant. He resides with his sons at farm house. On 28.03.2009, at about

3.00 hours, there was no electricity in their field, therefore, his son namely Shivaji climbed on DP for connecting duo from main electricity line to distribution panel. While connecting duo, he died due to electricity shock. Thereafter, it appears that on recording supplementary statement of informant, Crime No.169/2004 was registered at Mukhed Police Station for offence punishable under section 304-A read with section 34 of the Indian Penal Code. On completion of investigation, charge-sheet was filed and respondents/accused was charged for offence under section 304-A read with section 34 of the Indian Penal Code. In support of its case, prosecution has examined four witnesses. The trial Court has acquitted the accused persons. Hence, this application.

4. It is a matter of record that there is previous enmity between informant and accused as R.C.C. No.167 of 2009 was filed by Madhav (informant) against Anand alleging that the agricultural field of informant and accused Nos. 1 and 2 are adjacent and there is previous enmity between them on account of right of way and boundary. In view of this, it is doubtful whether on the call of informant's side deceased would accompany him for making connection. Though, Suryakant Bichkunde (PW-3) and Shivkant Bichkunde (PW-2)

are eyewitnesses, the trial Court has observed that there are discrepancies in their evidence. Admittedly, informant's side has bore-well and common well in their field, where electric pump is set up. Shivkant Bichkunde (PW-2) has admitted in his cross-examination that they have light at their farm, which comes from the same DP on which the accident has occurred and deceased has expired. Fact remains that in the written report dated 29.09.2009, the informant has not named the accused.

5. Trial Court has properly appreciated the evidence on record and has given sound reasons while recording acquittal. The view taken by the trial Court is a possible view, which is not liable to be interfered with in the facts of the present case. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE