



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 267 OF 2019

The State Of Maharashtra

..Appellant

VERSUS

Balu Alias Dharmaraj Bhagirath Shinde (Patil) ..Respondent/Accused

...

Addl. Public Prosecutor for Appellant : Mrs. S. N. Deshmukh

Advocate for Respondent : Mr. A.T. Jadhavar

...

CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.

DATED : 07th JULY 2025

ORDER:-

1. By this application, the State seeks leave to file appeal against the judgment and order passed by learned Sessions Judge, Osmanabad in Sessions Case No. 184 of 2014, thereby acquitting the respondent/accused.

2. The Respondent was charged for commission of offence under Section 302 of the Indian Penal Code on the allegations that on 18.07.2014, deceased Santosh had gone to attend the marriage at Kathale Chowk, Mahaveer Bhavan, Kallam along with P.W.7. After breakfast at the marriage place, deceased went outside the Marriage Hall. P.W.7 heard noise of quarrel between the deceased and the

accused. He rushed out and saw the accused assaulting the deceased on his chest and back with elbow on account of previous quarrel.

3. Heard learned A.P.P for the State and learned Advocate for the respondent. Perused the record.

4. In support of its case, the prosecution examined 11 witnesses, including P.W.7, who claims to be an eye witness.

5. Perusal of the evidence led by the prosecution shows that, there are material inconsistencies and discrepancies in the evidence of the prosecution witnesses. P.W.7 has exaggerated his version in the evidence. Material contradictions by way of omissions are brought on record. There was no personal dispute between the deceased and the accused. The prosecution has failed to prove the motive on the part of the accused to commit the murder. Though independent eye witnesses were available, they are not examined by the prosecution. Medical evidence does not corroborate the prosecution version.

6. The Trial Court has properly appreciated the evidence and has assigned proper reasons. The view taken by the trial Court is a possible view and merely because another view is possible, this Court will not interfere in impugned judgment and order of acquittal.

7. For the afore-stated reason, we find no merits in the

application. The application, is therefore, dismissed. Leave refused.

(SANDIPKUMAR C. MORE)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE

Y.S. Kulkarni