



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 5 OF 2016

Vinod S/o Prabhakar Sasane
Age: 28 years, Occu.: Presently Nil.,
R/o. Galli No.2, Vishranti Nagar,
Tq. and District Aurangabad. Appellant

Versus

The State of Maharashtra
Through Police Station Mukundwadi,
District Aurangabad. Respondent

.....
Mr.Arun S.Shejwal, Advocate for Appellant.
Mr.S.M.Ganachari, APP for Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 08-09-2026
Pronounced on : 09-09-2026

JUDGMENT :

1. Appellant, a convict, hereby challenges Judgment and order of conviction dated 05-12-2015 passed by learned Additional Sessions Judge, Aurangabad, in Sessions Case No.173 of 2014, for offence under Sections 498-A, 306, 304-B, 323 of the Indian Penal Code (IPC).

BRIEF FACTS OF THE PROSECUTION CASE

2. In short, case of prosecution in trial Court was that, appellant (original accused No.1) was married to deceased Radhabai on 09-10-2011. After marriage, she went to cohabit with her husband and in-laws. It is the case of prosecution that, for initial six months, deceased was treated properly, but thereafter, there was demand of Rs.50,000/- for purchase of motorcycle and there was said to be ill treatment for non-fulfillment of said demand. Getting fed up of maltreatment, deceased immolated herself. On report of informant brother, crime was registered and upon investigation, accused husband and in-laws were tried vide Sessions Case No.173 of 2014, which ended up in acquittal of accused nos.2 to 4, but as accused No.1 alone is convicted, he has preferred instant appeal.

SUBMISSIONS**On behalf of appellant :**

3. Learned counsel for the appellant would submit that, there is false implication. According to him, there was no cruelty in the backdrop of any demand. That, on the point of cruelty, there are general and omnibus allegations. That, there is no convincing evidence except testimony of informant brother and neighbour. He emphasized that, informant brother has mere hearsay information,

whereas in view of the cross-examination of neighbour, it is doubtful whether he was party to any overt act allegedly played by accused persons like beating to the deceased. It is submitted that, there is no evidence to show that immediately prior to the burns suffered by deceased, there was any ill treatment for not meeting money demand. Thus, according to him, there is weak or no evidence on the point of cruelty or appellant to be responsible for death on account of any dowry demand. According to him, deceased suffered accidental burns and prosecution has failed to prove that, there was any abetment or instigation to commit suicide, He pointed out that, husband alone is convicted and rest of the accused are acquitted on the same set of evidence. According to him, learned trial Court has failed to appreciate and consider the evidence in its correct perspective and erred in recording guilt. Hence, he prays to set aside the impugned Judgment by allowing the appeal.

On behalf of State :

4. Per contra, learned APP, while justifying the order of conviction, pointed out that admittedly, unnatural death of deceased has taken place in the very house of accused. That, there are accusations of subjecting deceased to ill treatment on account of demand of Rs.50,000/-. On such count, there used to be beating.

According to him, PW4 Vishal, a neighbour had heard cries of deceased due to beating and he has deposed to that extent. That, evidence of brother of deceased and neighbour has remained unshaken in cross-examination. Consequently, he justifies the Judgment and order of conviction and prays to dismiss the appeal for want of merits.

BRIEF ACCOUNT OF EVIDENCE BEFORE TRIAL COURT

5. **PW1** Parmeshwar Waware, informant, who is brother of deceased, deposed at Exhibit 18 about his sister being married to appellant on 09-10-2011. According to him, after marriage, his sister was treated properly for six months, but thereafter he alleged that, husband and in-laws started beating her on trivial issues. Then he deposed that, accused started demanding Rs.50,000/- for purchase of motorcycle and whenever his sister came to their house, she narrated about the above demand. That, the said demand was met, but even thereafter, there used to be harassment to his sister i.e. by making scars on her body by means of blade or by giving burns and that understanding was given to the accused, but it went in vain. On 03-01-2014, he learnt from accused no.1 that deceased immolated herself. He claims that, one day before suicide, all accused beat deceased in pursuance to demand of dowry and said incident was

reported by his sister on phone and getting fed up of ill treatment, his sister committed suicide, therefore, he lodged complaint Exhibit 19.

While under **cross-examination**, he admitted that, at the time of engagement with accused no.1, he had visited house of accused, and had enquired about occupation of accused no.1 and his father and they had learnt that they had separate jobs. He admitted that, they found that accused persons are in sound financial condition and therefore, they performed marriage of Radhabai with accused No.1. He admitted that, his sister delivered a differently abled child and said child to be maintained by accused No.4. He also admitted that, thereafter his sister conceived and she had come for delivery to their house. He further admitted that, within 4-5 days of delivery, the girl child died and due to this, his sister was in grief. He admitted that, his friends accompanied him at the time of lodging complaint and there to be consultation between them.

Omission is brought to the extent of his sister reporting the incident on phone.

6. **PW2** Sadanand Gaikwad is spot pancha. Spot panchanama is at Exhibit 32.

7. **PW3** Satyabhama Raut, a neighbour, as has not supported and

having resiled, was cross-examined by prosecution itself.

8. **PW4** Vishal Vaijinath Jogdand resides in the front house of accused and he in his testimony at Exhibit 40 stated that, there is 15 feet road between his house and house of accused. According to him, for 5-6 months, accused properly treated deceased, but according to him, later on, they started beating her on trivial issues. According to him, deceased used to state about ill treatment to persons, who used to talk about the same that accused were subjecting deceased to cruelty for the reason that she was unable to prepare food, and she was not looking good. They beat her for such reason. According to him, in the night of 02-01-2014, all accused beat deceased. That, her cries were loud and even noise of quarrel was audible to all the residents of the lane. On 03-01-2014, there was assault on Radha and she set her ablaze between 11:00 to 11:30 a.m. i.e. getting fed up of ill treatment.

While under **cross-examination**, he admitted that, road between the house of accused and his house has traffic as it goes to Railway Station. He also admitted that, it is not audible to accused if talks takes place in his house. According to him, in 2014, he was in 12th Standard. He admitted that, he never talked with Radha. He answered that, Anita was his mother and he admitted that, she has

filed complaint against accused No.3 six months prior to the incident of Radha in Mukundwadi Police Station and since then relations between accused and them were not good. Rest is all denial.

9. **PW5** Rajkumar Padv, is the Investigating Officer, who deposed about steps taken by him during investigation till filing of chargesheet.

ANALYSIS

10. Charge against four accused persons in trial Court was under Sections 498-A, 304-B and 306 of the IPC.

As regards to cruelty is concerned, it is the case of prosecution that, after six months of marriage, there was demand of Rs.50,000/- for purchase of motorcycle and on account of non-fulfillment of said demand, there was beating to deceased.

Charge under Section 498-A :

Before appreciating prosecution evidence on this count, a brief snapshot of settled legal position needs to be stated and the same is as under :

Judicial Precedent :

The **essential ingredients** of the offence are as follows:

- (1) A woman was married,
- (2) She was subjected to cruelty,
- (3) Such cruelty consisted in -
 - (i) Any willful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life,
 - (ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the unlawful demand;
 - (iii) the woman was subjected to such cruelty by her husband or any relation or her husband

In a landmark case of ***Girdhar Shankar Tawade v. State of Maharashtra*** (2002) 5 SCC 177, the Hon'ble Apex Court gave succinct enumeration of the object and ingredients of Section 498-A IPC as under :

"3. The basic purport of the statutory provision is to avoid "cruelty" which stands defined by attributing a specific statutory meaning attached thereto as noticed hereinbefore. Two specific instances have been taken note of in order to ascribe a meaning to the word "cruelty" as is expressed by the legislatures: whereas Explanation (a) involves three specific situations viz. (i) to drive the woman to commit suicide or (ii) to cause grave injury or

(iii) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in Explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury : whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since the same would also embrace the attributes of "cruelty" in terms of Section 498-A."

11. Here, out of five witnesses examined by prosecution, crucial evidence is of informant **PW1** i.e. brother of deceased and **PW4** neighbour as rest of the witnesses are **PW2** spot pancha and **PW3**, a neighbour, who had turned hostile and **PW5** Investigating Officer. Similarly, there is no dispute about relations between deceased and accused persons i.e. after marriage of accused no.1 with deceased dated 09-10-2011.

On carefully going through evidence of **PW1** Parmeshwar, brother of deceased, he is found to be deposing that, after six months of marriage, accused beat his sister on trivial issues. Then he stated that, there was demand of Rs.50,000/- for purchase of motorcycle. Said demand was also met, but according to him, harassment continued and accused used to inflict scars by blade and inflict burns.

However, he does not speak about accused No.1 husband indulging in such acts or which of the remaining three in-laws inflicted the said harassment. In examination-in-chief, he states about receiving a phone call from accused No.1 at around 01:30 p.m. on 03-01-2014 about deceased setting her ablaze. Apparently, FIR is lodged on the next day i.e. 04-01-2014 and witness has admitted that, at such time, there was deliberation and consultation prior to lodging FIR.

In his **cross-examination**, he has admitted that financial condition of accused No.1 was sound and therefore, his sister was married with accused No.1. He also admitted that, accused No.1 and his father has distinct jobs. He has admitted that, deceased had given birth to a differently abled child and unfortunately, had lost second girl child merely after 4-5 days and as such, she was in grief.

12. The other crucial witness is **PW4** Vishal, a neighbour residing at a distance of 15 feet away from the house of accused. However, though in examination-in-chief he deposed that, deceased cohabited properly for six months, as like PW1 brother, he also attributed allegation of beating that too on trivial issues. Sweeping allegations are made by him also like PW1 about all accused beating deceased. Though he deposed that, there was ill treatment at the hands accused, it is conspicuously noticed that, he does not speak about demand of

Rs.50,000/- as stated by PW1 brother. Rather according to him, deceased used to state to persons to whom she talked that there was ill treatment for not preparing food and for not having good looks and that accused used to beat her on such counts. This is not the story of prosecution nor her very brother PW1 has testified to that extent. Therefore, he gives a very different version than the PW1 informant. Moreover, in **cross-examination** he has admitted that deceased never had talks with him. With his such answers, it is clear that, he has no personal knowledge nor had he seen harassment or beating. Moreover, it has been brought in his cross-examination that, his mother had lodged a complaint against accused No.3 herein i.e. Prabhakar Sasane prior to six months of incident of Radha, at Mukundwadi Police Station and since then there were strained relations between them. Therefore, there is also possibility of deposing due to animosity. Moreover, his statement is not shown to be recorded immediately but is recorded on 06-01-2014.

For above reasons, complete reliance cannot be placed on the testimony of above witness, more particularly, when he is at complete variance on the point of demand and nature of harassment.

Therefore, in view of above discussed evidence, charge under Section 498-A of the IPC cannot be said to be proved beyond reasonable doubt and to be in consonance with legal requirements.

Charge under Section 304-B :

13. Second accusation of prosecution is that, within seven years of marriage, accused subjected deceased to cruelty and harassment in the backdrop of dowry demand.

Again a brief snapshot of settled legal position on the point as to when charge under Section 304-B would get gravitated, needs to be stated and the same is as under:

Judicial Precedent :***“304-B. Dowry death. -***

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Explanation.- For the purposes of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven

years but which may extend to imprisonment for life.”

14. In ***Bansi Lal v. State of Haryana***, (2011) 11 SCC 359, the Hon’ble Apex Court has held that, while considering case under Section 304-B, cruelty has to be proved during close proximity of time of death and it should be continuous and such continuous harassment, physical or mental, by accused, should make life of deceased miserable, which may force her to commit suicide.

15. In ***State of Rajasthan v. Girdhari Lal***, (2013) 15 SCC 269, the Hon’ble Apex Court has observed that the period which can come within the term “soon before” cannot be put within the four corners of time-frame. It is left to the Court for its determination depending upon the facts and circumstances of each case. On facts, though in the past there was cruelty and harassment in connection with dowry demand, yet there was no evidence on record to come to a definite conclusion that soon before her death the cruelty and harassment which the deceased suffered was for or in connection with any demand of dowry, in such situation the presumption under Section 113-B of the Evidence Act also cannot be drawn.

16. Likewise, in ***Manohar Lal v. State of Haryana***, (2014) 9 SCC

645, the Hon'ble Apex Court has observed that, as per definition of "dowry death" in S. 304-B IPC and wording in presumptive S.113-B, Evidence Act, one of the essential ingredients, amongst others, in both the provisions is that the woman concerned must have been "soon before her death" subjected to cruelty or harassment "for or in connection with the demand of dowry". The Hon'ble Apex Court further observed that the proximity test has to be applied keeping in view the facts and circumstances of each case and the facts must show existence of a proximate live link between effect of cruelty based on dowry demand and death of the victim.

17. Similarly, in *Sher Singh v. State of Haryana*, (2015) 3 SCC 724, the Hon'ble Apex Court held that, there must be live link and proximity between cruelty emanating from dowry demand and death of woman. The words "soon before her death" indicate that there must be a live link between the cruelty emanating from a dowry demand and the death of a young married woman, as is sought to be indicated by the words "soon before her death", to bring Section 304-B into operation; the live link will obviously be broken if the said cruelty does not persist in proximity to the untimely and abnormal death. It cannot be confined in terms of time. The demand for dowry should not be stale or an aberration of the past, but should be the

continuing cause for the death under Section 304-B or the suicide under Section 306 IPC.

The germane of above provision is that soon before death, deceased must have been shown to be subjected to cruelty in the backdrop of dowry demand and consequently, death must have been unnatural one.

18. Thus, for attracting charge of **Section 304-B** of the IPC, it is incumbent upon prosecution to prove two essentials i.e. firstly unnatural death taken place within 7 years of marriage and secondly, soon before her death, it has to be demonstrated that there was harassment or cruelty by husband or his relatives with connection of any demand of dowry.

Here, **PW1** brother does not speak about any dowry demand except stating that he learnt from his sister that there was demand of Rs.50,000/- for purchase of motorcycle. Marriage is admittedly of 2011, unnatural death is admittedly of 03-01-2014. Therefore, apparently death has taken place within seven years of marriage. However, further essential requirement is that, it is incumbent upon prosecution to substantiate that, soon before the death, there was cruelty or harassment in the backdrop of dowry demand.

PW1 brother has stated that there was proper treatment for initial six months and thereafter, he claims that there was harassment to his sister by all accused. Apparently, sweeping allegations are made without giving specific instances or roles on the point of maltreatment by accused persons. It is not demonstrated that on 03-01-2014 or immediately in proximity to it, there was harassment and cruelty more specifically in the backdrop of demand of Rs.50,000/- for motorcycle. PW1 Brother's evidence is silent on any harassment and demand on either 02-01-2014 or 03-01-2014.

Even, evidence of PW4 neighbour is silent about any demand of Rs.50,000/- for motorcycle. Consequently, though deceased suffered burns on 03-01-2014, it is not demonstrated that said burns were only and only on account suicide due to harassment and not otherwise. Therefore, essential elements of demand and harassment in proximity to the suicide are not forth-coming on record from the prosecution evidence.

Charge under Section 306 :

19. According to prosecution, the harassment and cruelty was of such nature that deceased was left with no other alternative but to immolate herself.

Judicial Precedent :

20. For attracting offence under Section **306 of IPC**, it is obligatory on the part of prosecution to prove the **essential ingredients** which are as follows:

- (1) There was suicide of a person;
- (2) It was committed in consequence of abetment of the accused.

The *sine qua non* for above charge is abetment to commit suicide. As to what amounts to abetment is provided in the statute itself.

“306. Abetment of suicide- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

“107. Abetment of a thing- A person abets the doing of a thing, who-

First- Instigates any person to do that thing; or

Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of said conspiracy, and in order to the doing of that thing; or

Thirdly – Intentionally aids, by any act or illegal omission, the doing of that thing.”

21. There are numerous and series of judgments of the Hon’ble Apex Court on above penal section. A few landmark judgments could be enumerated as under:

In the case of *Swamy Prahaladdas v. State of M.P. and another*, 1995 Supp (3) SCC 438: (AIROnline 1995 SC 94), the Hon’ble Supreme Court was considering a situation where the accused was alleged to have remarked to the deceased ‘to go and die’ and thereafter, the deceased committed suicide. Even in such a situation the Supreme Court held that the allegations, even if they were to be accepted as it is, did not *prima facie* reflect *mens rea* on the part of the accused and it was also found that the deceased did have time to weigh the pros and cons of the act by which he ultimately ended his life. It was held that the accused need not face the charge in such a situation.

22. In the case of *Sanju alias Sanjay Singh Sengar* (supra), relied by learned counsel for the appellants, the Hon’ble Supreme Court was considering a situation where the deceased had left behind a suicide note, wherein it was specifically stated that the accused was

responsible for his death. In the said case, the Hon'ble Supreme Court considered the liability of the accused to face investigation and prosecution under Section 306 of the IPC, in the context of Section 107 thereof and it was held that the word "instigate" denotes incitement or urging to do some drastic or inadvisable action or to stimulate or incite, further holding that presence of *mens rea*, therefore, was a necessary concomitant of instigation. It was found that in the said case the alleged abusive words were used by the accused against the deceased, two days prior to the date when the deceased was found hanging. In these circumstances, the Hon'ble Supreme Court found it fit to quash the criminal proceedings.

23. In the case of ***Madan Mohan Sing v. State of Gujarat and another***, (2010) 8 SCC 628 : (2010 AIR SCW 5101), the accused was alleged to have instigated his driver to commit suicide. There was a suicide note of 15 pages left behind by the deceased and the accused had approached the High Court for quashing of the FIR and the criminal proceedings, but his prayer was rejected, as consequence of which, the accused was before the Hon'ble Supreme Court seeking relief. The Hon'ble Supreme Court applied Section 306 read with 107 of the IPC and found that there has to be proximity between the alleged acts of the accused and the extreme step taken by the

deceased of committing suicide. It was held that the allegations made and the material ought to be of a definite nature and not imaginary or inferential. The Hon'ble Supreme Court went into the suicide note of about 15 pages and found that the contents thereof expressed the anguish of the deceased, who felt that his boss (the accused) had wronged him, but it was noted that the contents fell short of depicting an intentional act on the part of the accused for driving the deceased to commit suicide. On this basis, the judgment of the High Court was set aside and the FIR and criminal proceedings were quashed.

24. In the case of *S.S. Chheena v. Vijay Kumar Mahajan and another* (2010) 12 SCC 190 : (2010 AIR SCW 4938), the Hon'ble Supreme Court considered the facts of the said case and after referring to Sections 107 and 306 of the IPC, found that the High Court had erred in not quashing the criminal proceedings. Reference was made to a series of judgments on the aspect of abetment, particularly in the context of instigation. It was observed in the said judgment as follows:-

“25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of

the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.

26. In the instant case, the deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. Human sensitivity of each individual differs from the other. Different people behave differently in the same situation.”

25. In the case of ***Vaijnath Kondiba Khandke v. State of Maharashtra and another*** (2018) 7 SCC 781 : (AIR 2018 SC 2659), the Hon'ble Supreme Court took note of the fact that there were indeed two lines of cases in the context of quashing of criminal proceedings, when the accused was facing charge of offence under Section 306 of the IPC. After taking note thereof, in the said judgment, the Hon'ble Supreme Court held that the accused may face trial if the material on record *prima facie* shows that the situation was created deliberately by the accused so as to drive the victim to suicide. On the facts of the said case, it was found that the FIR and the

criminal proceedings deserved to be quashed.

In the case of **Geo Varghese** (supra), relied by learned counsel for the appellants the Hon'ble Supreme court held as follows:

“23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

26. In the case of **Shabbir Hussain v. The State of Madhya Pradesh and others** (order dated 26/07/2021 passed in SLP (Cri) No. 7284/2017) : *AIR Online 2021 SC 761*, the Hon'ble Supreme Court

relied upon earlier judgment in the case of ***Amalendu Pal*** (supra) and held that mere harassment without any positive action on the part of the accused proximate to the time of occurrence, which led to the suicide, would not amount to an offence under Section 306 of the IPC.

27. Further, in the case of ***Kishori Lal v. State of M.P.*** (2007) 10 SCC 797, the Hon'ble Apex Court gave a clear exposition of Section 107 of the IPC when it observed as follows in para 6:

“6. Section 107, IPC defines abetment of a thing. The offence of abetment is a separate and distinct offence provided in IPC. A person, abets the doing of a thing when (1) he instigates any person to do that thing; or (2) engages with one or more other persons in any conspiracy for the doing of that thing; or (3) intentionally aids, by act or illegal omission, the doing of that thing. These things are essential to complete abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do any thing. The abetment may be by instigation, conspiracy or intentional aid, as provided in the three clauses of Section 107. Section 109 provides that if the act abetted is committed in consequence of abetment and there is no provision for the punishment of such abetment, then the offender is to be punished with the punishment provided for the original

offence. “Abetted” in Section 109 means the specific offence abetted. Therefore, the offence for the abetment of which a person is charged with the abetment is normally linked with the proved offence.”

28. Here, though it is the case of prosecution that deceased immolated herself, there is no distinct evidence that it was nothing but a suicide. When there was charge of **Section 306**, it was expected of prosecution to substantiate that there was abetment, inducement or instigation by accused persons. Coupled with *mens rea*, there has to be positive role played by accused person in compelling deceased to end up her life. Here, it is not specifically shown that, firstly it was suicidal death and not accidental. None of the witnesses has thrown any overt act on accused for creating such circumstances that deceased had left with no other alternative but to end up her life. Consequently, even charge of Section 306 of the IPC, in the considered opinion of this court, fails.

29. In the present case, it is noticed that in all four accused persons were chargesheeted and tried i.e. husband and three in-laws. However, on appreciating the entire evidence, on same set of evidence, learned trial Court has acquitted accused nos.2 to 4 from all charges of Sections 306, 304-B, 498-A, 323, 504 and 506 of IPC.

When same set of evidence is applied against them, it is noticed that they are given acquittal and only accused No.1 husband is held guilty.

It is fairly settled position that, on same set of evidence, if co-accused are acquitted then other accused also deserves to be acquitted on the ground of parity. One comes across proposition to this extent laid down by the Hon'ble Apex Court in the case of ***Javed Shaukat Ali Qureshi v. State of Gujarat***, MANU/SC/1012/2023 wherein earlier judgment of Hon'ble Apex Court in the case of ***Harbans Singh v. State of U.P. and Others*** reported in (1982) 2 SCC 101, was referred to and it was observed in paragraph 15 as under:

“When there is similar or identical evidence of eye witnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. In such a case, the cases of both accused will be governed by the principle of parity. This principle means that the criminal court should decide like cases alike, and in such cases, the court cannot make a distinction between two accused, which will amount to discrimination.”

Similarly, in another judgment of the Hon'ble Apex Court in the case of ***Yogarani v. State by the Inspector of Police***, reported in MANU/SC/1046/2024, the Hon'ble Apex Court has referred to the judgment of ***Javed Shaukat Ali Qureshi*** i.e. above judgment and

reproduced paragraph 15, which is reproduced in aforesaid paragraph.

Likewise, again the Hon'ble Apex Court in a recent judgment of *Vaddi Ratnam v. State of Andhra Pradesh*, reported in MANU/SC/1344/2025, in paragraph 9 reiterated the above law.

SUMMATION

30. On critical evaluation of entire evidence, it is emerging that there is material omission in the testimony of PW1 informant brother about deceased informing him on phone about earlier incident. There are sweeping allegations against all accused for beating and raising demand of Rs.50,000/- for purchase of motorcycle. Evidence of PW4 neighbour is unsafe for reliance because he is at complete variance on the nature of harassment, which PW1 brother has not at all stated and he remained silent on the point of demand of Rs.50,000/- for purchase of motorcycle.

31. For above reasons, on complete re-appreciation of evidence, this Court has noticed that, there is weak evidence on the point of charge of Sections 498-A, 304-B, 306 and 323 of the IPC. Learned trial Court ought not to have convicted accused No.1 alone when

remaining accused were acquitted by applying the same evidence. Hence, interference is called for. Accordingly, following order is passed :

ORDER

- I. The Criminal Appeal is allowed.
- II. The conviction awarded to appellant Vinod S/o Prabhakar Sasane by learned Additional Sessions Judge, Aurangabad, in Session Case No.173 of 2014 under Sections 304-B, 306, 498-A, 323 of the Indian Penal Code, on 05-12-2015 stands quashed and set aside.
- III. The appellant Vinod S/o Prabhakar Sasane stands acquitted of the offence punishable under Sections 304-B, 306, 498-A, 323 of the Indian Penal Code
- IV. The bail bonds of the appellant stand cancelled.
- V. Fine amount deposited, if any, be refunded to the appellant after the statutory period.
- VI. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

[ABHAY S. WAGHWASE, J.]