



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

CRIMINAL APPEAL NO. 38 OF 2018

Suryakant S/o. Rajaram Raulwar
Age: 33 years, Occu.: Business,
R/o. Talegaon at present Chinchala,
Tq.Umri, District Nanded.

....Appellant
(Orig. Accused No.1)

Versus

The State of Maharashtra

....Respondent

.....
Mr.Upendra B.Bilolikar, Advocate for Appellant.
Mr.G.O.Wattamwar, APP for Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 05-10-2026
Pronounced on : 06-10-2026

JUDGMENT :

1. In this appeal, there is challenge to judgment and order of conviction of appellant/original accused no.1 for offence under Section 498-A, 306 of the Indian Penal Code (IPC), passed by learned Additional Sessions Judge, Bhokar on 04-01-2018 in Sessions Case No.30 of 2012.

PROSECUTION CASE IN BRIEF

2. In brief case of prosecution in trial Court was that, accused no.1 Surykant was married to deceased Sangita and after marriage, she

went to cohabit with accused and in-laws. A daughter was born out of said wedlock. Since two years prior to the death of Sangita, accused subjected her to physical and mental cruelty in the back drop of demand of Rs.1,00,000/- for clothes shop. She was also driven out of the house, but subsequently on intervention of relatives, she had come to cohabit with accused, however, ill treatment continued for above demand. Finally, getting fed up of the same, Sangita consumed poison on 02-03-2012 and she died.

On the report of PW3 Dashrath, father of deceased, crime was registered, it was duly investigated by PW10 Pralhad Susar (Investigating Officer) and accused No.1 husband and in-laws were chargesheeted and tried vide above sessions case.

Learned trial Judge vide judgment and order dated 04-01-2018, acquitted accused Nos.2 to 5 from charge under Sections 498-A, 306 read with Section 34 of the IPC , but appellant/original accused No.1 husband alone came to be convicted for offence under Section 498-A and 306 of the IPC.

The said judgment and order is subject matter of appeal before this Court.

SUBMISSIONS

On behalf of appellant :

3. Learned counsel for appellant would submit that, there is false

implication. According to him, though entire family was roped in and tried, accused Nos.2 to 5 are already acquitted from all the charges and only appellant husband is held guilty. He pointed out that, though case of prosecution is rested on testimony of ten witnesses, crucial evidence is of PW3 Dashrath Linganna Dasewar and PW4 Sheshabai Dashrath Dasewar, who are parents of deceased, but according to him, they are not consistent. That, there is no iota of evidence on the point of form and nature of cruelty. That, general and vague allegations are raised against all accused. He would point out that, on same set of evidence accused Nos.2 to 5 are acquitted, but accused No.1 husband is convicted. According to him, there is no evidence to show that there was any abetment to commit suicide, however, learned trial Court accepted the case of prosecution as only against accused No.1 husband and therefore, he prays to allow the appeal by acquitting appellant husband also. He seeks reliance on the Judgments of this Court passed in the case of *Vinod v. The State of Maharashtra* on 09-09-2026 and in the case of *Dnyaneshwar Rangnath Salve v. The State of Maharashtra* on 27-02-2025.

On behalf of respondent State :

4. In answer to above, learned APP, while justifying judgment and order of conviction, would submit that there is cogent and convincing

evidence about cruelty being inflicted to deceased in the backdrop of demand of Rs.1,00,000/- for clothes shop. That, prosecution witnesses including parents of deceased have testified to that extent. He pointed out that, there are injuries noticed on the person of deceased and there is inquest panchanama to that extent. Thus, according to him, appellant husband being solely responsible for said injuries, he is rightly convicted by the learned trial Court. For above reasons, he prays to maintain judgment and order of conviction passed by the learned trial Court by dismissing the appeal.

SUM AND SUBSTANCE OF EVIDENCE

5. Re-appreciated the evidence. Case of prosecution is based on evidence of PW1 Tatewad, pancha to spot panchanama Exhibit 40; PW2 Mudgalwar, pancha to spot panchanama Exhibit 42 and seizure to container; PW3 Dashrath Linganna Dasewar, father of deceased; PW4 Sheshabai Dashrath Dasewar, mother of deceased; PW5 Balaji Madhavrao Shinde, a neighbour and acquaintance of informant; PW6 Shobha Kadam, carrier; PW7 Kishnabai Shinde, acquaintance of informant; PW8 Dr.Maroti Dake, Autopsy Surgeon; PW9 Aruna Srivastav, carrier and PW10 Pralhad Govind Susar, Investigating Officer.

Relations *inter se* between deceased and accused persons are

not disputes. Further there is no dispute that deceased Sangita died due to consumption of Zink Phosphide, rat killer.

Going by the case of prosecution and nature of accusations, evidence of **PW3** Dashrath and **PW4** Sheshabai, parents of deceased as well as neighbour and acquaintance **PW5** Balaji and **PW7** Kishnabai assumes importance and the same is analyzed at the outset.

6. **PW3** Dashrath, father of deceased, at Exhibit 44 stated that his daughter was married to accused No.1, who was doing tailoring business and also selling clothes. According to him, for initial two years, his daughter was treated properly. According to him, in-laws of his daughter resided together. In his evidence, he deposed that husband beat his daughter and insisted her to bring Rs.1,00,000/- for his clothes shop whereas in-laws harassed her. That, his daughter was sent home at his place and she stayed there for a year and after indulgence of relatives, she was taken back. He claims that, he and his wife visited her and at that time, deceased told that husband beat her for demand of Rs.1,00,000/- for clothes shop. That, in-laws abused her in filthy language. That, in March 2012, news of his daughter being admitted in Rural Hospital was received. She was then taken to a Private Hospital at Nanded, but she expired and so he lodged report Exhibit 45.

While under **cross-examination**, he denied that he was knowing accused persons prior to marriage of his daughter. He admitted that, he accepted the marriage proposal even after considering his economical condition. He admitted that, after marriage of daughter, accused persons purchased a plot and also constructed a house at Chinchala. He admitted that, occasionally, he and his wife used to meet their daughter at Chinchala. He denied that, during lifetime of Sangita, business of accused had developed and they had three clothes shops and one tailoring shop. In paragraph 10, he admitted that accused have Cut Piece Center at Umari but denied knowing another shop being started by name Rajaramdeo Kapad Dukan and Saree Center at Umari or about opening a shop namely Rajkamal Kids Wear and Dresses at Umari and that accused persons had in all four shops. He is unable to give names of 4-5 persons, who accompanied him to the Police Station. Rest is all denial.

7. **PW4** Sheshabai, wife of PW3 deposed that, for about one year her daughter leave happy married life. According to her, while she was residing at Chinchala, at that time, it was insisted Sangita to bring Rs.1,00,000/-. According to her, accused were not providing food to her daughter. That, accused used to beat and abuse her in

filthy language and whenever she came for festivals to their house, she informed about it. She also deposed that, two years prior to incident, accused beat her daughter and drove her out of house and so she came to their house and stayed for a year and thereafter, on indulgence of relatives and respected persons, she was sent back to Chinchala. According to her, thereafter, for one year, they did not send her to their home and therefore, during such period, she and her husband used to go to Chinchala to meet her and according to her, at such time, deceased wept and informed that accused persons are not giving food to her and they abused her in filthy language. Then she deposed about accused insisting her to bring Rs.1,00,000/- for clothes shop. Thereafter, she deposed about news of her admission in hospital and then taking her to Private Hospital.

In **cross-examination**, she denied knowing accused prior to marriage of her daughter. According to her, prior to marriage, accused were having tailoring shop. She stated that, after marriage, for 2-3 years, her daughter resided with accused at Talegaon. She identified photographs of new clothes shops shown to her and she admitted that she and her husband appearing in photographs Exhibit 51. She also admitted that, as Talegaon was away from Umari and as accused were unable to look after shop properly so they purchased a plot at Chinchala and constructed a house thereon. She expressed

ignorance whether accused were having four shops and a car. She answered that, when her daughter was staying with her for one year, at that time her husband alone visited their house and no report was lodged at Police Station. Rest is all denial.

8. **PW5** Balaji, who was knowing PW3, as well as accused, has deposed at Exhibit 52 that accused were having tailoring shop at Umari and thereafter they opened a clothes shop in said tailoring shop. According to him, initially matrimonial life of Sangita and accused No.1 at Chinchala was happy, but thereafter, harassment begun. According to him, accused persons beat Sangita and abused her in filthy language. According to him, deceased informed him the reason behind beating was over the demand of accused persons. He claims to have given understanding to accused in the times of quarrel. He stated that, he learnt that deceased had come to stay with parents and again went back to leave with in-laws and then taken to Rural Hospital and a telephone message received about her death.

While under **cross-examination**, he also admitted that accused purchased a plot and constructed a house. Omission is brought about deceased informing him regarding harassment to her or beating her. Rest is all denial.

9. **PW7** Kishnabai, who claims to be knowing accused as well deceased deposed at Exhibit 56 that, some days after marriage, there was happy matrimonial life of deceased and accused No.1. According to her, thereafter in-laws, husband and other family members beat Sangita and reason behind beating was demand of Rs.1,00,000/- for purchase of clothes shop. She claims to have gone to house of accused to rescue deceased from beating. That one year after the marriage, parents of Sangita came to Chinchala and understanding was given to accused. Then she deposed about deceased consuming pesticides.

While under **cross-examination**, she admitted that only when accused came to reside at Chinchala, she got to know deceased. She admitted that, she had not informed parents of Sangita regarding harassment caused to her by husband. She expressed her ignorance about accused having shops. Rest is all denial.

ANALYSIS AND CONCLUSION

10. Thus, what can be culled out from above discussed evidence of parents i.e. PW3 Dashrath and PW4 Sheshabai are concerned, apparently they are not consistent. PW3 Dashrath claims that for two years matrimonial life of his daughter was good, but contrary to it, his own wife i.e. mother of deceased PW4 Sheshabai states that after

marriage, for about one year, there was happy matrimonial life of deceased. Whatever is stated by PW4 Sheshabai regarding Sangita being not provided food, or kept starved or beaten and abused in filthy language has not been stated by PW3 Dashrath, her husband and father of deceased. Her version is also distinct from that of PW3 Dashrath about deceased weeping and informing about she being not provided food. PW3 Dashrath speaks of demand of Rs.1,00,000/- by husband, but contrary to it, said demand of Rs.1,00,000/- is attributed to all accused by PW4 Sheshabai. Therefore, witnesses PW3 and PW4, who are husband and wife and parents of deceased, are not lending support to each other and rather inconsistent.

11. As regards to evidence of **PW5** Balaji and **PW7** Kishnabai are concerned, PW5 merely speaks that, initially there was happy matrimonial life of accused no.1 and deceased at Chinchala. He also makes vague allegations by stating that harassment started to deceased and accused beat her and abused her in filthy language. PW3 Informant father has attributed beating to husband and not to other accused. As regards to statement of PW5 that he learnt from deceased the reason of beating was demand, which is apparently vague and it is found to be an omission as he admitted that his statement is silent to such extent.

Likewise **PW7** Kishnabai also states that for some days after marriage, there was happy matrimonial life and she also raises omnibus allegations that in-laws, husband and even other family members beat Sangita after insisting her to bring Rs.1,00,000/- from her parents. Though she deposed that she went to recuse of deceased from beating, in cross-examination, she is unable to state when she went and she also admitted that she did not inform to parents of Sangita about any such beating. Therefore, her evidence, is not safe for reliance.

12. Consequently, here, there are allegations of demand of Rs.1,00,000/- against all accused, but PW3 informant, father of deceased attributes beating only to husband. When exactly beating took place has not come on record in the evidence of any of the witnesses i.e. PW3 Dashrath, PW4 Sheshabai, PW5 Balaji and PW7 Kishnabai.

13. For attracting charge of Section 498-A of the IPC, it is essential for prosecution to demonstrate that there was physical cruelty and mental cruelty in the backdrop of demand of money. Here, as stated above, testimony of witnesses discussed above are not consistent as to when exactly demand was raised. They are at variance about since

when demand was raised.

14. Learned APP would strenuously submit that there were injury marks noticed on the person of deceased at the time of inquest. However, there is no evidence that on 02-03-2012 there was any beating to deceased. PW5 Balaji, a neighbour of the accused has not stated about any beating to deceased on 02-03-2012 or immediately previous to it. He merely claims that deceased informed him that there was beating over demand and that when there was quarrel in the house of accused, he used to go and give understanding to them. However, his testimony is silent about any quarrel or beating on 02-03-2012 or in proximity to it. Further, though he stated that Sangita informed him about harassment, he is unable to assign any reason why it was not so appearing in his statement.

Apparently PW7 Kishnabai is also silent about any episode of beating on 02-03-2012.

15. In the post mortem conducted by PW8 Dr.Maroti Digambarrao Dake, though he had noticed ante mortem injuries, he has given its age to be 3-5 days and it is not the case of prosecution that there was cruelty and beating to deceased for 3-5 days causing abrasion injuries on person of deceased. Injury No.1 is infected wound over right infra

scapular region, but Autopsy Surgeon has not opined that said injury was possibly a beating mark. In the light of such evidence, it can not be for sure said that husband beat deceased and caused above injury.

16. In paragraph 23 of the impugned judgment, learned trial Court has held that evidence against husband of Sangita is specific but evidence against in-laws is vague. Learned trial Court has observed that, when other accused were running clothes shop, husband of deceased devilishly think of starting separate clothes business and for that purpose he “**might have**” insisted Sangita to bring Rs.1,00,000/- from her parents and finally, learned trial Court has held that prosecution has proved offence of Section 498-A and 306 of the IPC against husband. Apparently, above inference is on assumption and presumption and cannot be allowed to be sustained.

17. Here, it is emerging that on above evidence itself, learned trial Court has acquitted accused Nos.2 to 5, however, accused No.1 husband alone held guilty by applying same set of evidence. Law is fairly settled that this is not permissible.

18. Law is fairly settled that, on same set of evidence, if co-accused is acquitted then other accused also deserves similar treatment on the

ground of parity. On this proposition, reliance can be placed on the judgment of 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.

19. Conviction of appellant husband for offence under Sections 498-A and 306 of the IPC on assumptions drawn by trial Court cannot be allowed to be sustained. Here, deceased committed suicide by consuming rat kill poison, but there is no evidence that accused No.1 husband abetted the said consumption. It is fairly settled position that prosecution has to prove its case beyond reasonable doubt. Here, it has not so happened and therefore, even conviction of appellant husband alone by acquitting rest of the accused by applying same set of evidence, cannot be allowed to be sustained. Consequently, appeal deserves to be allowed. Accordingly, following order is passed.

ORDER

- I. The Criminal Appeal is allowed.
- II. The conviction awarded to the appellant Suryakant S/o. Rajaram Raulwar by learned Additional Sessions Judge, Bhokar in Sessions Case No.30 of 2012 for offence under Sections 498-A and 306 of the Indian Penal Code, on 04-01-2018, stands quashed and set aside.
- III. The appellant Suryakant S/o. Rajaram Raulwar stands acquitted of the offence punishable under Sections 498-A and 306 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.]

SPT