



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.109 OF 2016

Govind s/o Shripati Shelke

.. Appellant

Versus

The State of Maharashtra
Through Police Station Officer,
Police Station, Shirur Anantpal,
Tq. Shirur Anantpal, Dist. Latur.

.. Respondent

...

Mr. V. D. Gunale, Advocate for the appellant.
Mrs. A. S. Mantri, APP for respondent/State.

...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 28.08.2026

Pronounced on : 29.08.2026

JUDGMENT :-

1. This appeal impugns the judgment and order dated 09.02.2016 passed by the learned Additional Sessions Judge, Nilanga in Sessions Case No.13 of 2012, recording conviction under Sections 498-A, 306 of Indian Penal Code [IPC].

BRIEF FACTS OF THE CASE

2. **PW1** brother of deceased Deepa lodged report Exhibit-42 stating that his sister Deepa was married to appellant/accused No.1. Accused No.2 was his mother. After marriage, his sister went to cohabit at matrimonial place i.e. Khadak Omerga. According to him, his sister was treated properly for two years, but thereafter she was beaten by husband under influence of liquor and there was demand

of Rs.2,00,000/-. His sister reported him about the ill-treatment and demand. Understanding was given by seeking indulgence of Sarpanch and others, but ill treatment continued. On 18.11.2011, he learnt from accused No.1/husband that husband slapped her and she left the house and was therefore duly searched, but as was not found. Initially missing report was lodged. Subsequently, dead body of his sister spotted floating in the well water. After the funeral and last rituals, he lodged report Exhibit-42 resulting into registration of crime bearing No.113 of 2011 for offence under Sections 498-A, 306, 323 read with Section 34 of IPC against husband and mother-in-law of his sister.

3. After charge-sheeting both accused, they were made to face trial. At trial, prosecution has adduced evidence of in all seven witnesses and also relied on documentary evidence, which was duly appreciated and after hearing both sides, case of prosecution came to be accepted by recording the guilt of the accused and by passing impugned judgment, which is now the subject matter of the present appeal.

SUBMISSIONS

On behalf of appellant/original accused No.1 :-

4. Learned Counsel for appellant pointed out that there is false implication. According to him, there was no cruelty or demand as

alleged. That, at no point of time, previously, there was any report of demand or cruelty at any place. According to him, only interested witnesses like brother and mother are examined. That, independent witness Sarpanch has not completely supported the prosecution case and that there is no cogent and reliable evidence on the point of vague, general and omnibus allegations. According to him, even mother and brother are not consistent and are rather at variance on material counts i.e. on the point of when, how and for what purpose there was demand. Finally, he submitted that there is no evidence on the point of cruelty so as to attract Section 498-A of IPC.

5. As regards the charge under Section 306 of the IPC, he would strenuously submit that there is no evidence of any inducement, abetment or instigation to commit suicide. He submitted that there is no evidence to show that, immediately prior to the alleged suicide, there was any overt act on the part of the accused which impelled the deceased to commit suicide. According to him, at the first part, prosecution has not proved that it was suicide by jumping or it was an accidental fall, as initially brother himself has lodged A.D. report. Resultantly, he questioned the conviction accorded by the learned Trial Court for the charge of abetment to commit suicide.

On behalf of respondent/State :

6. Per contra, learned APP would support the judgment and order of conviction, as according to her, there is cogent and reliable evidence on the point of cruelty in the backdrop of demand. He further pointed out that only because of said cruelty, deceased ended her life by jumping in the well. She therefore urged to dismiss the appeal.

EVIDENCE BEFORE THE TRIAL COURT

7. Heard. Re-appreciated the entire evidence adduced by prosecution in the trial Court. As many as seven witnesses seem to have examined by prosecution. Crucial evidence is only of PW1 brother of deceased, PW3 mother of deceased and PW4 and PW6, who are independent witnesses.

8. On appreciating the evidence of **PW1** brother of deceased, he seems to have testified that after two years of cohabitation, his sister was ill treated. According to him, husband beat her under the influence of liquor in the backdrop of demand of Rs.2,00,000/-. His sister reported him about the same and then he states that on 18.11.2011 he received phone call from accused/husband regarding quarrel between him and deceased, in which he had allegedly slapped

deceased and since then she left the home. Therefore, on next day, she was searched and he himself lodged missing report Exhibit-40. He further deposed that on next morning, he learnt about a dead body in the well, so he went there and identified it to be of his sister and therefore, again went to police station and gave report Exhibit-41 which is A.D. and after funeral, on the next day, he gave report Exhibit-42.

His cross-examination shows that Exhibit-42 is not at his instance. He admitted upbringing and fixing of marriage of his sister was by PW6. He admitted that since fetching out the dead body till postmortem was done, police were present. He admitted that at the time of filing missing report, PW6 as well as other relatives were also present with him.

Paragraph No.7 of his cross-examination shows that there are omissions on material points like accused/husband consuming liquor and under its influence assaulting deceased in the backdrop of demand of Rs.2,00,000/-; about his deceased sister informing him about the ill-treatment; that on 18.11.2011 around 1.30 hours he getting call from accused/husband regarding there to be quarrel between him and deceased and deceased being slapped by him.

9. **PW3**, mother of the deceased, in her evidence at Exhibit-51 testified that her daughter went to cohabit with accused persons. She deposed that there was ill-treatment to her daughter and both accused insisted her to bring Rs.2,00,000/- for purchasing Tempo and whenever she came, she reported about ill-treatment and demand. According to her, eight days prior to the demise, she had come to the parental house and was taken back by the accused. That, in the midnight, accused No.1 made phone call to her son to know the whereabouts of deceased and, therefore, she was searched for and on the third day, it was learnt that her dead body was found in the well. According to her, deceased died because of ill treatment at the hands of accused.

While under cross-examination, omissions are brought about ill treatment given to deceased after birth of first child and about relatives being indulged to convince the accused. She admitted that prior to demise, there was no complaint against accused. She admitted that her daughter, after marriage, frequently visited PW6 and marriage expenses were borne by them. Rest is all denial.

10. **PW4**, an acquaintance of both deceased as well as informant, deposed at Exhibit-49 that after marriage deceased went to cohabit with husband and was treated properly for two years, but thereafter

there used to be frequent quarrels and accused used to beat deceased. He testified that there might be demand from her maternal house. That, eight days prior to the incident, she had come to his house, but in examination-in-chief itself, he has stated that she did not inform him anything and, therefore, finding him not supporting, learned APP chose to cross examine this witness

11. **PW-5**, also a common acquaintance of the deceased and the informant, deposed that, after the marriage, marital life of deceased was good, but thereafter, dispute arose between the husband and wife. The husband insisted her to bring amount of Rs.2,00,000/-, but her brother expressed his inability to pay the said amount and, therefore, a dispute arose. He further stated that, when he and others had been to the matrimonial house of deceased, in their presence, the accused assured them that he would not ill-treat the deceased and would rather treat her properly.

But while under cross-examination, this witness unable to state when he had given statement and admitted that no demand was made in his presence. He admitted that at the time of death of Deepa, accused was having cash from the sale of his land. He also admitted that Deepa was maintained and married off by PW6.

12. **PW6** deposed that as he was issue less, he and his wife maintained deceased since she was of two years of age and she was raised as their own daughter. In paragraph No.2 of his examination-in-chief, he has stated that marital life of Deepa was good, however, occasionally, there used to be quarrels between husband and wife that too on domestic count and that Deepa died due to falling in well. That, he was unaware how she died. Therefore, finding him not supporting, learned APP chose to cross-examine this witness, but nothing fruitful could be elicited from his cross-examination.

13. **PW7** is the Investigating Officer.

ANALYSIS

14. From above discussed evidence, it is clearly emerging that, according to brother **PW1**, after two years of marriage, there was ill treatment, however, he has not elaborated the form of such ill-treatment. He merely stated that husband beat his sister under influence of liquor in the backdrop of demand of Rs.2,00,000/-, but he has not stated for what purpose the said demand was made. Though he has deposed about beating under influence of liquor, he himself in paragraph No.7 has admitted that he has not stated so in his report and, therefore, on the point of cruelty, there is material

omission.

15. Even **PW3** mother merely speaks about ill-treatment started to deceased, but when and on what count has not been stated. Again, contrary to her own son PW1, she has deposed that both accused insisted her to bring Rs.2,00,000/- for the purpose of Tempo. This is not the story of PW1. Her evidence is also silent about beating by accused No.1.

16. As regards to rest of the witnesses, i.e. **PW4**, **PW5** and **PW6** are concerned, PW4 has deposed only about quarrel between husband and wife. He does not seem to be sure, because he has stated that there might be demand from Deepa's maternal house. Even during visit of deceased to his place, there was nothing informed by her. Again, **PW5** does not speak about beating in the backdrop of demand of Rs.2,00,000/- as is stated by other witnesses and he merely speaks about disputes between husband and wife. Similarly, **PW6**, who raised deceased from childhood till her marriage, only deposed about quarrels between husband and wife and that too on domestic counts.

17. Resultantly, on the point of cruelty, there is weak or no evidence. For attracting charge under Section 498-A of IPC, it is incumbent upon prosecution to demonstrate and substantiate

maltreatment, which is of continuous in nature.

18. So far as Section 498-A of IPC, law to this extent is clarified by the Hon'ble Apex Court in the case of ***Manju Ram Kalita v. State of Assam***, reported in (2009) 13 SCC 330, wherein it has been clarified as to what is meant by "cruelty" which is contemplated under Section 498-A of IPC. It is held that, cruelty must be assessed contextually which is distinct from its usage in other statutes. The germane of the accusation which is expected to be established is that, the woman was subjected to cruelty "continuously" or "persistently" or at least in close proximity to the time of lodging complaint. There has to be willful conduct to drive the woman to commit suicide or to cause grave injury to her life, limb or health (mental and physical). It has to be demonstrated that there was harassment with the view to coercing her or her relatives to meet any unlawful demand and harassment was on account of failure to meet the same. The above propositions are also echoed and reiterated in the recent judgment of the Hon'ble Apex Court in the case of ***Smt. Bhagwati Devi v. State of Uttarakhand*** reported in 2025 INSC 1051.

19. Here, for above reasons, as testimonies of witnesses are not consistent and when informant's evidence itself is full of material omissions and contradictions, the charge of Section 498-A cannot be

said to be proved.

20. Appellant was also charge-sheeted for offence under Section 306 of IPC. For attracting said charge, it is the duty of prosecution to prove that there was inducement, instigation or abetment to commit suicide. There has to be live link on the point of cruelty and abetment, which compelled deceased to take the extreme step of committing suicide. Law to that extent is repeatedly reiterated by the Hon'ble Apex Court in numerous cases, and the few cases which can be named are *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618, *S. S. Chheena v. Vijay Kumar Mahajan and Others* (2010) 12 SCC 190 as well as *M. Mohan v. The State represented by The Deputy Superintendent of Police* MANU/SC/0161/2011, wherein standard of "instigation" is elaborately dealt and discussed.

Even, recently in the case of *Abhinav Mohan Delkar v. State of Maharashtra and others*, MANU/SC/1103/2025 the Hon'ble Apex Court has reinforced "proximate trigger" doctrine emphasizing that there has to be close temporal and casual connection between the conduct of accused and the alleged suicide. Continuous harassment, without recent instigation, is held to be not sufficient to sustain the charge.

21. Here, on testing the evidence on the touchstone of above requirements, it is noticed that the deceased allegedly left the house on 17.11.2011. The informant-brother received a phone call at around 1:30 hours on 18.11.2011 and learnt from none other than the appellant/husband that, as he had slapped the deceased, she had left the house. She was duly searched for on 18.11.2011, however, she was not found, and therefore, PW1 lodged a missing report. Even in the missing report, there is no reference of any beating or slapping by husband, which is improvised by PW1 in the testimony before the Court. Even after dead body of Deepa was traced and fetched out of the well, informant himself has lodged A.D. and at that point of time also, there were no allegations of any nature. Only after last rituals, on the next day, report Exhibit-42 seems to have been lodged.

22. Be it so, evidence of prosecution is completely silent regarding the alleged occurrence of 17.11.2011 or even the night of 18.11.2011. There is nothing on record to show that, except for the alleged slapping, the deceased was subjected to any beating on account of the alleged demand or its non-fulfilment, or that she was subjected to such a degree of cruelty that she was left with no other alternative but to commit suicide. What part appellant played has not been demonstrated by prosecution. Resultantly, the evidence of

prosecution falling short of necessary ingredients like abetment or inducement to commit suicide. Even said charge cannot be said to be proved and the same fails.

CONCLUSION

23. Perused the judgment under challenge. The learned Trial Court appears to have failed to consider the aforesaid evidence in its proper perspective and in the light of the settled legal requirements. Hence, such judgment cannot be allowed to sustain and is required to be interfered with. Hence, the following order is passed :-

ORDER

- I. The appeal is allowed.
- II. The conviction awarded to the appellant Govind s/o Shripati Shelke by learned Additional Sessions Judge, Nilanga in Sessions Case No.13 of 2012 under Sections 498-A, 306 of Indian Penal Code, on 09.02.2016, stands quashed and set aside.
- III. Appellant - Govind s/o Shripati Shelke stands acquitted of the offence punishable under Sections 498-A, 306 of 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.

[ABHAY S. WAGHWASE, J.]

scm