



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

CRIMINAL APPEAL NO. 381 OF 2016

Sandip Eknath Dhangar

Age: 40 years, Occu.: Agriculture,

R/o : Bhaver, Tq.Shirpur, District Dhule.

....Appellant

(Orig. Accused No.1)

Versus

State of Maharashtra

....Respondent

.....

Mr.Joydeep Chatterji, Advocate for Appellant.

Mr.V.V.Jahagirdar, APP for Respondent.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 22-09-2026

Pronounced on : 23-09-2026

JUDGMENT :

1. Appellant challenges judgment and order of conviction dated 18-05-2016 passed by learned District Judge-4 and Additional Sessions Judge, Dhule in Sessions Case No.35 of 2014 recording guilt for offence under Section 498-A of the Indian Penal Code (IPC).

2. In trial Court, present appellant/accused no.1 and accused Nos.2 to 5, his family members and in-laws of deceased Suvarna faced prosecution for commission of offence under Sections 306, 498-A, 504, 506 read with Section 34 of the IPC. Case of prosecution was

rested on evidence of six witnesses. On appreciating oral and documentary evidence, learned trial Court was pleased to acquit all accused from charges under Sections 306, 504 and 506 of the IPC. Accused Nos.2 to 5 were also acquitted from charge under Section 498-A of the IPC, but appellant/accused no.1 husband alone was held guilty for offence under Section 498-A of the IPC. Hence, instant appeal by said convict husband.

3. Learned counsel for appellant would point out that, there is false implication. According to him, prosecution has miserably failed to prove that there was any mental or physical cruelty so as to attract offence under Section 498-A of the IPC. He pointed out that, infact on same set of evidence, accused Nos.2 to 5 are already acquitted, but accused No.1 husband alone is singled out and convicted without assigning any plausible and sound reason. He pointed out that, infact all accused including appellant husband are already acquitted from other charges under Sections 306, 504, 506 of the IPC. He very emphatically submitted that, findings and reasons of learned trial Court for recording guilt of accused no.1 are primarily based on assumptions, presumptions and surmises and as such, it is his submission that such judgment cannot be allowed to be sustained.

4. Learned APP would justify the order of conviction by submitting that prosecution evidence points out to the involvement of appellant husband and therefore, learned trial Court has rightly convicted him for charge under Section 498-A of the IPC.

5. As stated above, prosecution case is based on testimony of six witnesses. Admittedly, though there was charges under Sections 498-A, 306, 504, 506 of the IPC, learned trial Court has acquitted all accused including appellant from charges under Sections 306, 504, 506 of the IPC. Appellant/accused No.1 husband is alone convicted for charge under Section 498-A of the IPC. Thus, it is to be seen whether trial Court was justified in convicting husband alone for the said charge by acquitting other accused from all charges.

6. **PW1** Dr.Kailassingh Kamalsingh Rajpur seems to be Autopsy Surgeon, who conducted *post mortem* on deceased Suvarna Sandip Dhangar i.e. wife of appellant, who had sustained burns and had died “due to shock due to cardio-respiratory failure as a result of 100% extensive deep burn injury”. As stated above, for charge of abetment to suicide, including appellant all accused are already acquitted by the learned trial Court and there is no challenge by the State against the said acquittal.

7. **PW2** Sudarshan Baliram Dhangar seems to be brother of deceased and he in his evidence at Exhibit 53 has stated that his sister, after marriage, had a daughter and a son and she was residing with in-laws. According to him, after treating his sister well for initial period, accused subjected her to cruelty. According to him, when his sister was pregnant for third time, her in-laws started harassing her as they did not want third child and according to him, all accused demanded Rs.1,00,000/- for upbringing of the prospective third child. According to him, one month prior to her death, his sister had come to his place and had reported about above demand by accused and she had allegedly said to him that, if they wanted to see her alive, they must arrange Rs.1,00,000/-. That, on 10-09-2013, a phone call was received about his sister to be serious and when they reached village Bhawer, they come across her dead body. Thus, he filed complaint Exhibit 54.

During **cross-examination**, he admitted that accused No.1 has his own house as well as agricultural land and that his economic condition was better than them. He admitted that, he had been to his sister's place 5-6 months prior to her death. He is unable to state when his sister made grievance to him about ill treatment and demand by accused. He admitted that, when he gave complaint, other relatives were around him. He admitted that, he did not lodge

complaint on 10th, 11th, 12th September, 2013.

Omissions are brought in paragraph 15 to the extent of proper treatment for initial period and subsequently, cruelty being meted out to her, accused raising demand of Rs.1,00,000/- for upbringing of the would be born child, that one month prior to incident of death of his sister, she had come to Javkheda and asked them to arrange Rs.1,00,000/-. Thus, these are material omissions. Consequently, his version is apparently improvised.

8. **PW3** Pandit Ramchandra Dhangar is maternal uncle of deceased and PW2 informant and he deposed that, accused Nos.1, 2, 3 were harassing his niece because she was pregnant with third child. However, he attributes demand of Rs.1,00,000/- to accused Nos.1 and 2 and not to rest of accused. However, he claims to have learnt from deceased about harassment when she came to her parental house but in cross-examination, he is unable to state when was the last visit of his niece to the village.

Material omissions are brought in his cross-examination in paragraph 8 to the extent of accused Nos.1, 2 and 3 harassing deceased because she was pregnant with the third child and accused Nos.1 and 2 harassing, that deceased had come to her parental house and informed about demand and asking them to arrange

Rs.1,00,000/- if they want to see her alive. Therefore, there are material omissions and improvized version.

9. **PW4** Budha Sukdeo Dhangar, an acquaintance of accused and informant, has attributed mental and physical harassment to all accused for demand of money. Thus, unlike above two witnesses, he is not deposing about accused insisting for Rs.1,00,000/- for upbringing of prospective child and moreover, he attributes allegations to all accused.

He too while under **cross-examination** unable to state when he learnt about demand and harassment. He admitted that accused Nos.4 and 5 stayed at Nashik.

Material omission is brought in his cross-examination in paragraph 10 about brother of deceased convincing her about his inability to raise Rs.1,00,000/-.

10. Rest of the witnesses are **PW5** Dilip Vithoba Gangurde (API) is the Investigating Officer and **PW6** Ashok Madan Dabhade is the Police official, who carried out inquest panchanama.

11. Thus, what is discerned from above appreciation of evidence is that sweeping allegations are made against all accused for subjecting

deceased to cruelty, but neither of them has stated about form and nature of cruelty. Omnibus allegations are levelled against all accused. Testimony of informant is not corroborated by remaining witnesses and they are found to be at variance. What law contemplates to attract charge of Section 498-A of the IPC is consistent and persistent demand followed by mental and physical cruelty. This crucial aspect is patently missing in above evidence. Testimonies of witnesses like informant and maternal uncle are full of material omissions and they have improvized their versions.

12. As pointed out by learned counsel for appellant, on the same set of evidence, learned trial Court has acquitted accused Nos.2 to 5 from all charge including Section 498-A of the IPC and only appellant husband is singled out and held guilty. Learned trial Court, in paragraph 65, has surprisingly mentioned that “accused Nos.2 to 5 deserve benefit of doubt but same cannot be extended to accused No.1 husband as demand of money can be assumed to be from him”. Even in paragraph 57 of the judgment, as pointed out, learned trial Court has itself recorded a finding that sweeping allegations are made against all accused persons. When such was the findings recorded by trial Court, it was expected to assign sound reasons for recording guilt of accused No.1 husband alone by acquitting rest of the accused on

same set of evidence on which he is held guilty.

13. Law is fairly settled that if on same set of evidence co-accused are acquitted, then other accused also deserve similar treatment and law to this extent has been propounded in the case of ***Javed Shaukat Ali Qureshi v. State of Gujarat***, MANU/SC/1012/2023 as well as in the case of ***Harbans Singh v. State of U.P. and Others***, (1982) 2 SCC 101 and the relevant paragraph for ready reference is reproduced 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.”

14. For above reasons, even present appellant ought to have been given benefit of doubt by trial Court like other accused. Applying the above law, he too deserves benefit of doubt and therefore, appellant succeeds. Accordingly, following order is passed :

ORDER

- I. The appeal is allowed.
- II. The conviction awarded to the appellant Sandip Eknath Dhangar by learned District Judge-4 and Additional Sessions Judge, Dhule, in Sessions Case No.35 of 2014 under Section 498-A of the Indian Penal Code, on 18-05-2016 stands quashed and set aside.
- III. The appellant Sandip Eknath Dhangar stands acquitted of the offence punishable under Section 498-A 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.]