



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.352 OF 2017

The State of Maharashtra
Through Police Inspector,
Gramin, Nanded.

.. Appellant

Versus

1. Dinesh s/o Eknath Akul,
Age: 30 years, Occu.: Driver,
2. Ganesh s/o Eknath Akul,
Age: 28 years, Occu.: Private Job.
3. Eknath s/o Bapurao Akul,
Age: 61 years, Occu.: Driver,
4. Vatsalabai w/o Eknath Akul,
Age: 55 years, Occu.: Household,
Accused No.1 to 4
R/o. Shivajinagar, Jalgaon.
5. Chhaya Madhavrao Kurewad,
Age: 33 years, Occu.: Household,
R/o. Selu, Tq. Selu,
District Parbhani.
**(Appeal dismissed against respondent
No.5 as per order dated
01.08.2017)**

**.. Respondents
(Orig. Accused)**

...
Mrs. A. S. Mantri, APP for appellant/State.
Mr. Ravindra V. Gore, Advocate for respondent Nos.1 to 4.
...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 08.10.2026
Pronounced on : 09.10.2026

JUDGMENT :-

1. In this State appeal, there is challenge to the judgment and order of acquittal dated 23.02.2017 passed by learned Assistant Sessions Judge-1 Nanded in Sessions Case No.121 of 2012, acquitting the respondents from charges under Sections 498-A, 306 read with Section 34 of Indian Penal Code [IPC].

CASE OF PROSECUTION IN BRIEF

2. Prosecution was lodged against five accused alleging that deceased Vandana was married to accused No.1 Dinesh. For a month or so, she was treated properly, but thereafter accused persons demanded money for purchasing motorcycle and in that backdrop, it is alleged that she was subjected to cruelty and ill treatment. On 09.08.2011, accused No.1 abused and threatened deceased on phone. On the intervening night of 14.08.2011 and 15.08.2011, around 3.00 a.m., Vandana committed suicide by jumping in the well. According to prosecution as there was demand and ill treatment, Vandana committed suicide and as such, all the accused are consequently responsible. Hence, the prosecution. Accused were tried vide above Sessions Case, but ultimately came to be acquitted and hence, instant appeal by State.

SUBMISSIONS**On behalf of Appellant/State :-**

3. Learned APP, at the outset, would point out that accused No.5 having died, the appeal stood dismissed as against him vide order dated 01.08.2017. As regards to rest of the accused are concerned, she pointed out that they are husband, brother-in-law, father-in-law and mother-in-law respectively. She would point out that after marriage there was proper treatment to Vandana only for a period of one month. For motorcycle of accused No.1, demand was raised by all the accused and in that connection, she was subjected to physical and mental cruelty. According to her, there is convincing, consistent evidence of brother, father and sister. There is suicide note and as such, there was overwhelming evidence to bring home the charges. However, according to her, learned Trial Court failed to consider and appreciate the prosecution evidence in correct perspective and erred in acquitting the accused.

On behalf of respondents/original accused Nos.1 to 4 :-

4. Per contra, while justifying the judgment and order of acquittal, learned Counsel for the respondents would submit that prosecution has miserably failed to bring home the charges. He submitted that

there is only evidence of family members of deceased. No independent witness or neighbour is examined. That, moreover deceased died while she was at her parent's place. Accused has no concern with the alleged suicide. That, though there is suicide note, it is ambiguous and does not point to the involvement of any of the accused including husband. He pointed out that there are variances and inconsistencies and material omissions in the testimony of above witnesses and that the same was rightly considered and appreciated by the learned Trial Court while acquitting the accused. He seeks reliance on the judgments in the cases of *H. D. Sundara and others v. State of Karnataka*, (2023) 9 SCC 581, *Rajesh Prasad v. State of Bihar and another*, (2022) 3 SCC 471, *Jaihind s/o Sitaram Khale v. State of Maharashtra*, 2010 ALL MR (Cri.) 2264, *Naresh Ramkrushnaji Chikankar v. State of Maharashtra*, 2010 ALL MR (Cri.) 3517, *Ganpat Singh and others vs. State of Rajasthan*, 2002 Cri.L.J. 2246, *Amalendu Pal alias Jhantu v. State of W.B.*, AIR 2010 SC 512 and *Mangat Ram v. State of Haryana*, AIR 2014 SC 1782.

BRIEF ACCOUNT OF EVIDENCE BEFORE THE TRIAL COURT

5. In the light of above submissions, evidence adduced before the Trial Court is put to scrutiny. The status of prosecution witnesses are, **PW1** is the brother of deceased; **PW2** is the spot panch; **PW3** is the

father of deceased; **PW4** is the sister of deceased; **PW5** is the paternal uncle of deceased; **PW6** is the autopsy surgeon; **PW7** is the PSO, **PW8** is the Investigating Officer and **PW9** is the handwriting expert.

6. Crucial and relevant evidence is of father, brother, sister and uncle. There is also suicide note at Exhibit-42, which is got proved through PW1 brother.

7. **PW1** Madhav, the brother of deceased, in his evidence at Exhibit-41, gave date of marriage of his sister as 25.03.2000 and after marriage, his sister going to cohabit with her husband and in-laws. According to him, initially for one month, his sister was treated properly, but then claims that thereafter, there was demand of Rs.50,000/- for purchase of motorcycle and he claims that accused persons gave physical and mental ill treatment to her. According to him, accused no.1 consumed liquor and beat deceased with fist and kick blows and other accused also beat her. He claims to have learnt about it whenever he came on the occasion of festival and by way of mobile, his sister used to tell him. That, understanding was given to the accused, but still ill treatment was continued. In paragraph No.2 of his examination-in-chief, he has stated that in 2009, he himself, his parents, paternal aunt, brother-in-law, went to Jalgaon and at that time, accused told that they were not ready to keep her and also said

that they would not take her, if amount of Rs.50,000/- is not paid and therefore, his sister was brought to their house, where she stayed for one year. Again after one year, there was meeting and on assurance of accused that they would treat her properly, she was taken to Jalgaon and they behaved properly for some days, but again ill treatment began and it was reported by his sister on phone. He claims that before 2-3 months prior to the incident he had been to Jalgaon to bring deceased for the purpose of delivery and at that time, accused had questioned him why he came empty handed and not with the amount and he claims that on this count, accused beat his sister with fist and kick blows and thereafter, sent her with him and so he brought his sister to Tuppa. She gave birth to a girl child on 09.07.2011, but accused did not come to see the newborn and accused No.1 merely made phone call and since thereafter his sister was weeping and she stopped talking to them and she also conveyed that she was not ready to go back to the house of accused. He claims that on 14.08.2011, when all went to sleep after taking meals and finding the girl child crying, when all went, they did not find his sister on her bed and they thought that she must have gone to answer nature's call, but she did not come. However, one chit was found on the bed along with ornaments, wherein it was written that she was troubled in the matrimonial life and therefore, she is ending her life.

She was searched and finally, her dead body was found in the well and it was extracted. He identified the chit Exhibit-42 and he also identified the accused present before the Court.

. While under **cross-examination**, he admitted that prior to marriage, accused No.1 was working and therefore, marriage was performed. He admitted that his sister and accused lived together for about three years and that there was no report or complaint about ill treatment to police or even Women Redressal Forum. He also admitted that during stay of his sister in their house for one year also there was no complaint. Nor there was any litigation between his sister and accused No.1. In paragraph No.5 of his cross-examination, he is unable to state when accused demanded amount to his sister, nor he is in a position to state when there was ill treatment and in what form. He is unable to state for which vehicle demand was made. Omission is brought on the point of accused No.1 beating his sister under influence of liquor; that accused demanded Rs.50,000/- for motorcycle; that whenever sister came for occasion of festival she stated about ill treatment; about he identifying handwriting of Vandana. Omission is also brought on the point of stating police about phone call received from Vandana on 09.08.2011 and he admitted not making complaint on 09.08.2011. He himself went to

bring his sister for delivery. He is unable to state when meeting was held to give understanding.

8. **PW3** is the father of deceased, who, in his evidence at Exhibit-52, deposed that his daughter was treated properly for one month, after which there was demand of money for motorcycle and on that count, beating to her. According to him, in 2009, as there was more trouble, his son went and brought his daughter and she stayed for one year. Thereafter, a meeting was held for settlement of dispute and understanding was given to the accused. He deposed that his daughter was pregnant and one or two months prior to the incident he again sent his son Madhav to bring deceased for the purpose of delivery and he claims that accused asked his son why he came empty handed and they beat both his daughter as well as his son. That, his daughter gave birth to a baby girl and his daughter told that there was cruelty to her. Before the incident, his son got call from accused No.1 and he abused Vandana, due to which his daughter was frightened. Then, he stated that on 14.08.2011, his deceased daughter was not found in the house and was searched and only chit was found and thereafter, her dead body was found in the well. According to him, his daughter has ended her life because of cruelty of accused. He, therefore, lodged report Exhibit-53 and handed over

chit Exhibit-42.

. While under **cross-examination**, he admitted that before the incident, he had not lodged complaint. He also admitted that his daughter and accused cohabited happily for three to three and half years and that his daughter has never wrote any letter about ill treatment to her. He is also unable to give name of the motorcycle for which demand was raised. He is unable to state when demand was raised. He admitted that the chit is undated. He admitted that police never recorded his statement. Rest is all denial.

9. **PW4** is the sister of deceased, who also deposed at exhibit-57, that after marriage, Vandana was treated properly for one month and thereafter, accused gave ill treatment to her by demanding amount for motorcycle and sister being brought back to Tuppa and she residing there for one year. About meeting conducted and accused taking Vandana back to the house, she deposed that whenever she came to the house, deceased told about ill treatment. She further stated that Vandana was pregnant and therefore, her brother went to bring her, but accused questioned him for coming empty handed and according to her, accused persons threatened not to send back deceased without money. According to her, Vandana gave birth to a daughter, but after one month of the delivery, husband made phone

call and gave abuses to her on phone and since then she was said to be under fear and that Vandana told not to send her to matrimonial home as there was ill treatment. That, on 14.08.2011, after dinner, around 3.00 a.m., the baby girl was crying and, therefore, they went to see, but did not find Vandana on her bed. There was a chit and ornaments and so she was searched for, but her dead body was found in the well.

. While under **cross-examination**, she is also unable to give the name of motorcycle for which there was ill treatment to her daughter. She is unable to give date, month or year of ill treatment or beating. Omission is brought in cross-examination to the extent of accused making phone call.

10. **PW5** is the paternal uncle of deceased, who at Exhibit-59 also deposed that after one to two months of marriage, accused beat her, demanded money for motorcycle and because of the ill treatment reported on phone, her brother went to bring her back to village Tuppa, where she stayed for one year. Meeting being held to Jalna to give understanding and she being taken back by accused, where she resided happily, but again harassment began. His niece became pregnant and therefore, two months prior to the delivery, she was brought to the house of accused. He also stated that when brother

went to bring her, they both were beaten by accused. That, on the day of Rakhi Pournima, he went to his brother's place and at that time, deceased told him about ill treatment. In the night, when they woke up, hearing the baby girl cry, they went to her bed, but she was not found and therefore, upon search, a chit was found with ornaments. According to him, deceased ended up her life because of ill treatment by accused.

. While under **cross-examination**, he is unable to state when deceased made phone call to him. He is unable to state when demand of Rs.50,000/- was made. Rest is all denial.

ANALYSIS

11. Therefore, analyzing above discussed evidence of father, brother, sister and uncle, it is conspicuously emerging that there are general, vague and omnibus allegations against all the accused for demanding Rs.50,000/- for motorcycle. None of them is in a position to state when such demand was raised and by which of the accused. They merely speak about harassment and ill treatment, but none of them has specified the form of ill treatment or when such instances took place. It is also emerging from their testimonies that deceased and accused cohabited for three years. For one year the deceased was

in the house of complainant/father. When she went back to cohabit with accused is not stated by any of the witnesses. They merely claims that meeting was held at Jalna to give understanding, but there is no distinct evidence to that extent. They claim to have received telephonic information about her ill treatment, but details of such calls are not provided by anyone. Moreover, it is emerging that two-three months prior to the delivery, deceased was at her parent's place for delivery. After delivery also, she was continued to be staying in the parent's house. Witnesses though speak about accused not coming to see the child and merely making phone call to brother and during it abusing and threatening deceased, no details to that extent are coming on record. What was the abuse and in what form and for what she was threatened is also not stated by any of the witnesses. As stated above, there are also material omissions in the evidence of brother and sister.

12. What Section 498-A of IPC contemplates is continuous physical and mental cruelty, but here the said aspect is missing. None of the witness is in a position to specify or give details of the nature and form of ill treatment except stating that there was demand of Rs.50,000/- for motorcycle and harassment on that count. Apparently, sweeping allegations are made against all the accused.

Therefore, in the light of general, vague and omnibus allegations, the charge of Section 498-A of IPC cannot be attracted.

13. The next piece of evidence from prosecution side is suicide note, which is at Exhibit-42. Though handwriting expert, who issued opinion, is examined as PW9, on bare reading of the contents of the chit, it is apparent that primarily, it being undated, it cannot be said to be immediately prior to suicide. There is mere text that there was harassment in matrimonial house, but apparently deceased was residing at her own parent's place. The suicide note also refers to not to perform any religious function and surprisingly, it is stated that after her demise, she be given green saree and not the saree given by her matrimonial place. Furthermore, as pointed out, the suicide note also is not signed. Except reference of harassment, there is nothing to hold accused persons being held responsible for abetting the suicide.

14. In the light of above circumstances, it is clearly emerging that on the date of suicide, the victim was at complainant's house with her near and dear ones. Except receiving phone call from accused, that too few days prior to the suicide, there is nothing to connect the accused.

15. For attracting offence under Section 306 of IPC, it is incumbent upon prosecution to show that there was abatement, inducement and instigation by accused. By catena of judgments, this requirement is reiterated time and again. Few cases that could 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.

16. Keeping above legal requirement into consideration, here, there is no iota of evidence to show about any involvement of any of the accused including husband in inducing and instigating the alleged suicide. Deceased and accused are miles apart from each other at the

time of suicide. What transpired in the proximity of 14.08.2011 and 15.08.2011 involving the accused has not come on record. Resultantly, the charge under Section 306 of the IPC must also fail.

CONCLUSION

17. Perused the judgment under challenge. Learned trial court has apparently analyzed the evidence and appreciated the same in the spirit of legal requirements. There being no illegality or perversity in the impugned judgment and order, learned Trial Court committed no error in accepting the case of prosecution. Hence, the following order is passed :-

ORDER

. Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]