

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

APPLN/135/2015 WITH APEAL/34/2015 WITH APEAL/630/2014
CRIMINAL APPEAL NO. 316 OF 2015THE STATE OF MAHARASHTRA
VERSUS
VINAYAK S/O GANPATI POPALGHAT AND OTHERS...
APP for Appellant-State : Mr. B. L. Dhas
Advocate for Respondent : Mr. Anand V. Patil...
**CORAM : T. V. NALAWADE &
SMT. I. K. JAIN, JJ.****DATE : 27th March, 2015****PER COURT :**

1. The application is filed for grant of leave to file appeal against the judgment and order passed by the Additional Sessions Judge-1, Hingoli in Sessions case No. 9 of 2008.
2. Learned APP is heard. Seen the record.
3. The crime was registered on the basis of report given by the father of deceased. The deceased committed suicide within seven years of the marriage. She has kept behind one daughter and one son. There are allegations that there was illegal demand from the husband and his relatives. The father has mentioned in the FIR that few days prior to incident the deceased had called him on phone and as she was insisting, they immediately went to matrimonial house and they noticed that she had become sick due to ill-treatment which she had received. She committed suicide in the portion of floor mill situated in the house of respondents by setting herself on fire. Her statement was recorded by the Police officer in the hospital after taking fitness certificate from the doctor. She disclosed in the statement the incident of previous night that there was quarrel between her and the respondents and during quarrel, all of them had beaten her, due to which she got frustrated and she set fire to herself after pouring kerosene on her person.

4. There is also evidence given by the prosecution in respect of disclosure made by the deceased to the father in the hospital which is to the same effect.
5. Admittedly death took place due to burn injuries and within seven years of the marriage. There is evidence of aforesaid nature. The trial Court has believed the evidence given against the husband but trial court has not believed the evidence which is given against the relatives of husband though the evidence is similar in nature.
6. The trial court has given conviction for the offence under section 306 IPC when there is allegation of illegal demand also and harassment on that count of by the accused person. Acquittal is given in respect of offence punishable under section 304 B of the IPC.
7. In view of these circumstances and after considering the reasons, given in the judgment delivered by the trial Court, this Court holds that there is arguable case. Criminal Application No. 135 of 2015 is allowed. Leave granted.
8. Appeal is admitted.
9. Comply provisions of Section 390 of the Criminal Procedure Code.
10. Criminal Appeal No. 34 of 2015 is filed by the original complainant which is against acquittal and also for enhancement of punishment. In view of the aforesaid observation and the order already made on the application, this appeal is admitted. It appears that Criminal Appeal No. 630 of 2014 is already admitted.
11. Criminal Appeals to be listed together.

(SMT. I. K. JAIN, J.)
JPC

(T. V. NALAWADE, J.)