

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

CRIMINAL APPEAL NO.118 OF 2015

Arvind s/o Ankushrao Gunjal
Aged 23 years, Occu. Agricultural,
R/i Village Viregaon,
Taluka and District Jalna

... APPELLANT
(Victim)

VERSUS

1. Babu s/o Seva Rathod
Aged 49 years, Occu. Agricultural

2. Ramesh s/o Aasaram Rathod,
Aged 39 years, Occu. Agricultural

Both R/o Village Kavatha Tanda,
Taluka and District Jalna (M.S.)

3. The State of Maharashtra.
Through Dy. Superintendent of Police,
Anti Corruption Bureau, Jalna

(Notice to respondent No.3 be served
through the office of Asstt. Public
Prosecutor, High Court,
Bench at Aurangabad).

... RESPONDENTS

.....
Shri V.Y. Bhide, Advocate for appellant
Shri B.L. Dhas, A.P.P. for respondent No.3/ State
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CORAM: A.I.S. CHEEMA, J.

DATED: 17th February, 2015.

ORAL ORDER :

1. Heard learned counsel for appellant/ original
complainant. Perused record. Learned counsel for the appellant

tenders copies of some depositions of witnesses and dying declarations from trial Court record. Same are taken on record and be added.

2. Learned counsel for the appellant submitted that the trial Court has referred to the evidence of different witnesses which was brought on record by the prosecution, as enlisted in para 8 of the judgment. Still, according to him, the trial Court did not even refer to the evidence of P.W.6, P.W.8 and P.W.9. He submits that, there was evidence brought before the trial Court that there was a meeting on 21.12.2010 in which both the accused persons refused to reverse the sale deeds executed earlier. According to him, in two different transactions, the field of P.W.2 Ankush had been sold to respondents No.1 and 2 and although document of sale deeds were executed, there was oral agreement that after the money is returned, the sale deeds will be reversed. The accused persons refused to reverse the sale deeds in the meeting on 21.12.2010. He submits that, because of such act of the respondents, Mira, the wife of P.W.2 Ankush committed suicide on 22.12.2010. She burnt herself. He submits that, the two dying declarations of Mira were recorded at Exhibits 29 and 32. The learned counsel has submitted the dying declarations for perusal of the Court and he has taken me through the same. The learned counsel submitted that the trial

Court did not even refer to the second dying declaration and as such, the judgment suffers. According to him, the appeal deserves to be admitted.

3. Although there is some irregularity in the judgment of the trial Court, where all the witnesses have not been referred, the question before me is whether even accepting the whole case of prosecution, it would be a case for conviction. The facts are clear that P.W.2 Ankush was claiming that there was oral agreement to reverse the sale deed which was not honoured by respondents No.1 and 2 and because of anger, Mira committed suicide. Going through the two dying declarations Exh.29 and Exh.32, which have been put up before me for perusal, nowhere there is even reference of respondents – accused even talking with this Mira regarding refusal to reverse the sale deeds. In Exh.29 rather it is mentioned that Mira was told by her brother-in-law and “Bhaya” that accused have refused to reverse the sale deeds. The refusal of accused persons regarding what was basically a civil transaction, may be a reason for the reaction of victim Mira, who may have acted on impulse. By that itself the refusal of accused persons cannot be construed as abetment to commit suicide.

4. I do not find that this is a fit case to admit the

appeal. There is no substance. Admission of the appeal is declined. Criminal Appeal stands dismissed.

(A.I.S. CHEEMA, J.)

fmp/cr118.15