

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.875 OF 2015

The State of Maharashtra,
through Police Station,
Police Station, Police Station,
Vazirabad, Nanded ..Applicant

Versus

Anju w/o. Anil Surwase,
Age 26 years, occ. Household
r/o. Gavalipura, Nanded ..Respondents
and three others

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Mr.P.N.Muley, A.P.P. for the applicant- State.
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CORAM : M.T. JOSHI, J.
DATE : SEPTEMBER, 8, 2015

PER ORDER :

Heard both sides.

2] Aggrieved by acquittal of present respondents
from the offence punishable under Section 306 read
with 34 of Indian Penal Code, the State wants to
prefer an appeal and therefore, present

application for grant of leave to file appeal is filed.

3] The prosecution case, in short, is as under :-

. A twenty year's young man namely, Nitin, son of the complainant, was alone in his house in Gawalipura, District Nanded. The mother had gone to Pune to meet her another elder son. In the circumstances, on 7th August, 2011, she received phone call from deceased that the present respondents i.e. four women and husband of the one Manju, threatened him that he should continue to have relation with respondent no.1 – Anju. They also threatened that in case he did not keep respondent no.1 – Anju in his house, they would kill him. The deceased, therefore, apprehended that he would be killed. According to the complainant, all these respondents are not “good” and they would defame the family of the deceased.

4] Thereafter, on 11th August, 2011, the complainant – mother of deceased got a message through phone from her sister-in-law i.e. PW 3, who was residing in the same area, that deceased – Nitin committed suicide by hanging. Therefore, the complainant – mother filed the complaint.

5] During the investigation, a chit was found on the person of the deceased at Exhibit – 29, which was also on the similar lines.

6] Learned Addl. Sessions Judge disbelieved the prosecution case that the chit was in the handwriting of the deceased. Learned Addl. Sessions Judge further found that the conduct of PW 3 – sister-in-law of the complainant, in not reporting the matter of the earlier complaint made by the deceased to her own husband was unnatural. Further, there was no intentional instigation to

the commit suicide and hence, the acquittal of the present respondents came to be recorded.

7] Learned A.P.P. for the applicant - State submits that learned Addl. Sessions Judge ought to have found that the chit at Exhibit 29 was genuine and the ingredients of offence under Section 306 of Indian Penal Code are made out.

8] Upon perusal of the record and reasons forwarded by learned Addl. Sessions Judge, in my view, a reasonable and probable view of the material on record has been taken by the learned Addl. Sessions Judge. It is to be noted that the Investigating Officer did not take any efforts to prove the handwriting of the chit at Exhibit - 29, by collecting natural documents as sample handwriting of the deceased and get the opinion of the handwriting expert. The ingredients of the

offence under Section 306 of Indian Penal Code are, also not made out.

9] In the circumstances, present application for grant of leave to file appeal is rejected. Leave to file appeal is hereby refused.

[M.T. JOSHI, J.]

kbp