

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1655 OF 2014

The State of Maharashtra
through Bhadgaon Police Station,
Tq. Bhadgaon, Dist. Jalgaon

.. Applicant
(Ori. Complainant)

Vs.

- 1] Rajendra Krishna Sonawane,
Age 26 years
- 2] Ashok Krishna Mali [Sonawane],
Age 29 years,
- 3] Krishna Goba Sonawane,
Age 63 years,
- 4] Sumanbai Krishna Sonawane,
Age 55 years,
- 5] Sau. Pratibha Ashok Sonawane,
Age 22 years,

All R/o Jaihind Colony,
Bhadgaon, Tq. Bhadgaon,
Dist. Jalgaon

.. Respondents
(Orig. Accused)

Mrs. B.B. Gunjal, A.P.P.P for the applicant/State
Mr. Joydeep Chatterji, Advocate for the respondents 1 to 5

CORAM : M.T. JOSHI, J.
DATE : 09/06/2015

ORAL ORDER :

Heard both sides.

2. Aggrieved by the acquittal of the respondents from the offences punishable under section 306, 323, 498-A, 504 and 506 of the Indian Penal Code, the State wants to prefer appeal and, therefore, the present application for leave to file appeal is filed.

3. The prosecution case in short is as under:-

. That respondent no.1-Rajendra had married to deceased Swati on 7/5/2006. According to the prosecution case, they resided happily in the family consisting of other respondents for a period of about one year. Thereafter they alleged that the deceased was mentally ill. However all the family members thereafter started harassing the deceased on the ground that she was mentally ill and after taking divorce from her, second marriage of respondent no.1 would be arranged. Deceased Swati used to tell about this ill-treatment to her parental relatives. In the circumstances, on 31/1/2009, deceased suffered burn injuries. She was therefore admitted to one Ganpati Hospital at Jalgaon and ultimately to Aurangabad. Ultimately she died on 8/2/2009 due to the burn injuries.

. The post-mortem examination note at Exhibit 41 shows that the deceased suffered 92% burn injuries. The complaint was filed by father of the deceased, namely, Satish Mahajan who is a Police Constable himself. Besides the oral testimony of the said father, sister P.W. 3—Jyoti and P.W. 6 — Madhukar Wagh i.e. neighbour, prosecution also relied on three dying declarations of the deceased recording during the period when she was admitted to various hospitals.

. The defence was that the deceased was in-fact mentally ill. She was got treated by the respondents with one Psychiatrist Dr. Dilip Mahajan at Jalgaon. Regular medical treatment was going on. On the day of the incident i.e. on 31-1-2009, the deceased insisted that she would also accompany the respondent no.1 to his medical store. He was however not ready to take her to the medical store unnecessarily. In the ensuing quarrel, the respondent no.1 himself attempted to commit suicide. In the rage of fit deceased Swati said that instead of him she herself would commit suicide and set herself on fire. Respondent no.3 i.e. father-in-law tried to extinguish the fire in which deceased received

injuries and she was immediately taken to hospital, however, ultimately she died.

4. Learned Sessions Judge took into consideration the admitted fact that the deceased was being treated for certain mental disorder. According to prosecution, however, that treatment was unnecessary. Further, there was vast contradiction between all the dying declarations. Exhibit 32 dated 1/2/2009 corroborates defence that on 31/1/2009 there was exchange of hot words between respondent no.1 and the deceased on the ground that the deceased pressed for accompanying him to the medical shop and in the said quarrel, the respondent no.1 attempted to commit suicide by hanging himself in the house and in the said dispute, the deceased set herself on fire. Respondent no.3 attempted to put off the same, however, ultimately, the deceased succumbed to the injuries.

5. Learned A.P.P. submits that there are three dying declarations corroborated by the oral evidence of the relatives of the deceased. The learned Sessions Judge however unnecessarily gave weightage to the medical treatment of the deceased and did not accept the

prosecution case.

6. On the other hand, Mr. Chatterji supports the reasoning of the learned Sessions Judge.

7. Upon hearing both sides, in my view, the learned Sessions Judge has taken a reasonable and probable view of all the evidence. Exhibit 32 would show that the deceased made a statement on 1/2/2009 i.e. on the next day of the incident corroborating the entire defence case, as detailed supra. There is no denial that the deceased was being imparted medical treatment for her certain mental disorder and one Dr. Dilip Mahajan used to treat her. The prosecution alleged that the said treatment was unnecessary and deceased was being ill-treated. Exhibit 32 however is silent about the same. In the said dying declaration, the deceased in natural course would have stated about the unnecessary medical treatment and ill-treatment to her. In those circumstances, in the present appeal against acquittal, grant of leave to file appeal would be an exercise in futility. In the circumstances, the following order:-

8. The application is hereby dismissed. Leave to file appeal is hereby refused.

[M.T. JOSHI]
JUDGE

arp/