

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram,	Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 2083 OF 2015

MRS. KANCHAN D/O RAGHUNATH BHISE
VERSUS
THE STATE OF MAHARASHTRA & ORS

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Advocate for Applicant : Mr. Sanap R. D.
APP for Respondent No.1: Mr. S. A. Ambad.

CORAM: T. V. NALAWADE, J.
DATED: 31st JULY. 2015.

PER COURT:

1. The application is filed grant of leave to file appeal against the judgment and order of acquittal delivered in Sessions Case No.127 of 2013 by the learned Additional Sessions Judge, Nanded. The respondents, accused are acquitted of the offences punishable under sections 306, 498-A, 201 read with 34 of I.P.C.
2. Heard learned counsel for the original complainant and also learned A.P.P. Seen the record.
3. The deceased was given in marriage to accused

No.1 Gajanan in the year 2008 and she died on 16th December, 2012. She has left behind two issues. The complaint is filed by sister of the deceased. There are allegations that initially there was a demand of Rs.20,000/- and this demand was met with but the demand of Rs.2 Lakh was also made as accused No.1 Gajanan wanted to purchase auto rickshaw. Allegations are that as this demand was not met with, ill-treatment was given to the deceased. There is also allegation that Gajanan had illicit relations. It is alleged that due to the aforesaid circumstances, the deceased committed suicide by consuming poison or she was finished by the accused persons.

4. In respect of the incident dated 16th December, 2012 the crime was registered on 26th December, 2012. Learned counsel for the applicant submitted that on 20th December, 2012 complaint was given by the sister of the deceased and subsequently also some applications were given but cognizance of those applications was not taken and so it cannot be said that delay has been caused in giving the F.I.R.

5. Even if the aforesaid contention made by learned

counsel is accepted as it is, for proving the offence mainly punishable under section 306 of I.P.C. it was necessary for the prosecution to prove that it is a suicidal death. On the contrary, evidence given by the complainant and mother of the deceased show that accused No.1 had informed to them immediately and they had rushed to the house of accused No.1. Evidence on the record shows that they noticed that deceased was unconscious. In their various applications given it is contended that deceased breathed last on the lap of her mother. Evidence is given to the effect that she died when she was being taken to the hospital and accused No.1 was taking her to the hospital.

6. It is the grievance from complainant side that when they were insisting for conducting P.M. examination on the dead body it was not done and the funeral was done hurriedly. Though the investigating officer has given evidence that due to circumstances of the case section 201 Cr.P.C. was used in the charge sheet, his evidence does not show that he made any attempt to collect information from the local body, village Panchayat about the permission granted by the local body for funeral. In

the village, as per procedure the record in respect of cause of the death is required to be given and on that basis the permission for funeral is given. There is no such record. The accused has taken the defence that deceased died due to jaundice. As there is no material to prove that it was a suicide, some material like expert evidence was necessary for that, it is difficult to believe on the basis of the evidence given by the mother and sister of the deceased that she had consumed poison and death took place due to poisoning and it is a suicide.

7. The evidence given of the ill-treatment and cruelty is very vague in nature. The mother is not in a position to say exactly as to when demand of Rs.2 Lakh was made by accused No.1. The particulars of illicit relations of accused No.1 are also not given. These circumstances need to be kept in mind while considering the delay caused in registering the crime and delay caused in giving statement to the police. The trial Court has given benefit of these circumstances to the accused persons. In view of the material of the aforesaid nature, this Court holds that nothing can be achieved if leave is granted to file the appeal.

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8. In the result, application is rejected. Leave is refused.

[T. V. NALAWADE, J.]

Dt.31/07/2015
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