

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 85 OF 2015

The State of Maharashtra **....Applicant**

Versus

Dinesh Eknath Aakul & Ors. **....Respondents.**

Mrs. R.K. Ladda, APP for State/applicant.

Mr. R.V. Gore, Advocate for respondent Nos. 1 to 5.

CORAM : T.V. NALAWADE, J.

DATED : 8th July, 2015.

ORDER :

1. The revision is filed by the State to challenge the order made by the learned Assistant Sessions Judge, Nanded in Sessions Case No. 121/2012 on Exh. 54. The application filed by the State for framing charge for offence punishable under section 304-B of Indian Penal Code is rejected. Both the sides are heard.

2. The relevant record was shown to this Court. The crime was registered on the basis of report given by father of deceased. The death took place within three years of the marriage. Allegations are made that about one year prior to the date of incident, the deceased was driven out of the matrimonial

house as demand of the husband of one motorcycle was not met with. There was the disclosure from the deceased that the husband and his relatives were harassing her and they were giving beating to her.

3. The deceased had returned to parents house and deceased gave birth to a son. Allegations are made that when two months prior to the date of incident son of the complainant had gone to the matrimonial house of the deceased, quarrel was picked up by saying that money was not brought. Allegations are made that the deceased was driven out of matrimonial house and since then she was living with the parents. After returning to the house of parents, there was a delivery and then one daughter was born to her. The father has contended that the deceased was not ready to return to matrimonial house by saying that there was illtreatment to her in matrimonial house. There was phone call from husband to the deceased on 9.8.2011, according to the complainant and complainant had suspicion that some incident had taken place between deceased and husband. He has contended that he had noticed that deceased was appearing frightened and ultimately, she committed suicide on 15.8.2011 by jumping in a well. She had left behind the suicide note.

4. In the suicide note, there is no whisper about the aforesaid demand allegedly made by the husband and his relatives. In the suicide note, she has made allegations that her mother in law was harassing her and on occasions, she was even giving beating to her. She was feeling insulted due to the conduct of the relatives of the husband. Suicide note shows that she was not ready to return to matrimonial house and she had taken the decision to put an end to her life. Thus, in the suicide note, which can be used under section 32 of Evidence Act, there was no whisper of illegal demand, demand of dowry. This document is exhibited as Exh. 44 and the case is part heard.

5. The learned APP submitted that in the substantive evidence, the complainant has repeated aforesaid allegations and so, it was necessary for the Sessions Court to frame the charge for offence punishable under section 304-B of I.P.C. The learned Assistant Sessions Judge has considered the aforesaid matter and has held that there is no material to frame such charge.

6. The record collected shows that it is a case of suicide and death took place within three years of the marriage. The

incident took place where the deceased was living with her parents and there is suicide note of aforesaid nature. Ordinarily, more weight will have to be given to suicide note if the Court decides to accept the suicide note and base the conviction on it. The so called substantive evidence given by the father and other witnesses can be considered, but the due weight will have to be given to dying declaration if it is acceptable and reliable. In view of these circumstances, this Court holds that no fault can be found with the order made by the Trial Court Judge in refusing to frame the charge for offence punishable under section 304-B of I.P.C.

7. In the result, the revision stands dismissed.

[T.V. NALAWADE, J.]

ssc/