

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

4. CRI.APPLN/3154/2014

THE STATE OF MAHARASHTRA
V/S
BABASAHEB SHRIRAM WAGHMARE AND OTHERS

Mr. S.A. Ambad, APP for State/applicant.

CORAM : T.V. NALAWADE, J.
DATED : 14th August, 2015.

ORDER :

1. The application is filed for grant of leave to file appeal against judgment and order of Sessions Case No. 144/2011, which was pending in the Court of the learned Assistant Sessions Judge, Beed. The trial Court has acquitted the respondents of the offences punishable under sections 498-A, 306 and 34 of Indian Penal Code. Heard the learned APP.

2. As the proceeding is filed for leave to file appeal, there was no need to give hearing to other side and so, the matter was heard. Notes of evidence are also produced in the present proceeding.

3. The crime was registered on the basis of report given by the brother of deceased. Deceased was given in marriage to accused No. 1 more than seven years prior to the date of incident. Accused Nos. 2 to 6 are relatives of accused No. 1. It is

the case of prosecution that accused No. 1 started demand of Rs. 40,000/- for purchasing motorcycle and on that count, he had given illtreatment to the deceased. It is the case of prosecution that accused No. 1 was expressing suspicion about the character of deceased and on that count also, there was illtreatment to the deceased. The deceased committed suicide by hanging herself when she was cohabiting with accused No. 1.

4. The prosecution has examined mostly the relatives of the deceased, who are uncle, brother, mother and nephew of the complainant.

5. As per the version of the complainant, first disclosure was made on telephone that the accused was demanding Rs. 40,000/-. On this point, different versions are given by the mother and other relatives of the informant, though the complainant has tried to say that he sold pair of bullocks in Sangli where he was working as labour for sugar cutting. There is no record whatsoever with him that he has collected Rs. 40,000/-. In any case, none of the witnesses have stated that the amount of Rs. 40,000/- was actually given. On the contrary, the evidence of one witness like Rajesh shows that on the first occasion, accused was riding his motorcycle and he was carrying his two daughters on his motorcycle and at that time, the

demand of Rs. 40,000/- was made.

6. There is evidence given about the second disclosure and that was about 2 months prior to the date of incident and that disclosure was also on phone. The evidence of witnesses shows that they even could not give the number of the phone of accused No. 1 on which accused No. 1 used to contact the deceased. The allegations about the illtreatment are very vague in nature, but there was cohabitation of more than seven years and the deceased was blessed with two daughters, though not the son. There can be many reasons for committing suicide. Only due to the circumstance that deceased was wife of accused No. 1, inference cannot be drawn that there was illtreatment to her or that accused No. 1 or other accused had abetted the suicide. The term 'abetment' as defined under section 107 of I.P.C. was required to be proved in this case. There is no convincing evidence and sufficient material. Nothing can be achieved by granting leave to the State to file appeal.

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

[T.V. NALAWADE, J.]

ssc/