

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2616 OF 2015

The State of Maharashtra,
through Police Inspector,
Rahuri Police Station, Tal.
Rahuri, District Ahmednagar

APPLICANT

VERSUS

1. Kailas Kushaba Thokale,
Age : 38 years, Occu. Service
2. Parabai Kushaba Thokale,
Age : 65 years, Occu. Household
Both r/o Malharwadi Road,
Tq. Rahuri, District Ahmednagar

RESPONDENTS

Smt. R.K. Ladda, A.P.P. for applicant/State

CORAM : M.T. JOSHI, J.

DATE : 2nd September, 2015

ORAL ORDER :

1. Heard learned A.P.P. Perused the reasoning forwarded by the learned Additional Sessions Judge, Ahmednagar in the judgement dated 4th February, 2015, delivered in Sessions Case No. 75/2012.

2. The respondents were prosecuted by the applicant/State for the offences punishable under

section 498A, 306 read with section 34 of the I.P. Code.

3. The deceased – Aruna had married to respondent No. 1 on 20th May, 2001. She died due to suffering of burn injuries on 3rd October, 2010 while residing with the complainant i.e. her brother. The allegations would show that after marriage for about one year there was good treatment to deceased Aruna. Thereafter, respondent No.1 – the husband started making demand of money for purchasing motorcycle and other articles. He had beaten her for 3 or 4 times and even sent her to her parental home. In the circumstances, the deceased resided at the parental home for nine months. During that period also, respondent No. 1 used to visit her during holidays and used to abuse, threaten and beat her. During this period the incident of beating had occurred for two times. He used to tell that her character was not good and he would perform second marriage.

. On the basis of these allegations, the crime came to be registered. It is gathered that the dying declarations of the deceased at Exhibit-61 and Exhibit-72 were recorded during her admission in the hospital.

4. The learned Sessions Judge has taken into consideration the oral as well as documentary evidence on record. It was highlighted by the learned Sessions Judge that while the complainant's statement is that during the stay of the deceased for nine months with her brother-complainant, respondent No. 1 often came to his house and on two occasions, he beat the deceased, the dying declaration at Exhibit-72 recites that respondent No. 1 never came to meet the deceased during the said period of nine months. Besides this, the learned Sessions Judge has taken into consideration all the other variance in the dying declarations at Exhibit-61 and Exhibit-72 and extended benefit of doubt to the respondents.

5. The reading of the judgement would show that the learned Sessions Judge has taken into consideration all the material on record. The contradictory statements to the FIR are considered, as detailed supra. In that view of the matter, when the learned Sessions Judge has found that the charges are not proved beyond reasonable doubt, in my view, leave to file an appeal

need not be granted as it would be an exercise in futility as the appeal would be against the acquittal. Hence, the following order.

6. The application is hereby dismissed.

[M.T. JOSHI]
JUDGE

npj/criapln2616-2015