

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.339 OF 2001

Gajanan s/o. Baburao Sonwane,
Aged 31 years, occ. Labour,
r/o. N-6, G-17/14, CIDCO,
Aurangabad ..Appellant

Versus

The State of Maharashtra,
through Police Station,
CIDCO, Aurangabad ..Respondent

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Mr.Govind A. Kulkarni, advocate i/b. Mr.R.S.
Deshmukh, advocate for appellant

Mr.P.N.Muley, A.P.P. for respondent - State

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CORAM : M.T. JOSHI, J.
DATE : SEPTEMBER 08, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by the judgment and order dated 31st
July, 2001 passed in Sessions Case No.116 of 1997
by learned Addl. Sessions Judge, Aurangabad,
thereby recording conviction and sentences for the

offences punishable under 498-A and 306 of Indian Penal Code, original accused no.1 – Gajanan is before this court. He was sentenced to suffer rigorous imprisonment for one year for the offence punishable under Section 498-A of Indian Penal Code and two years for the offence punishable under Section 306 of Indian Penal Code, with direction to pay fine, as detailed in the order.

. Original accused no.2 – Sakharam i.e. maternal uncle of present appellant, was however acquitted from both the offences.

3] The prosecution case would show that the deceased – Geeta was married to present appellant on 23rd April, 1995. She died due to suffering of burn injuries on 3rd July, 1996. Her brother PW 2 – Ramesh Ramdas Raundalkar filed the complaint with the police at Exhibit 15. In nutshell, the allegations were that, during last six months of

cohabitation, the deceased reported to her parental relatives that accused no.2 – Sakharam used to poison ears of present appellant by saying that the deceased was not of a good character and she had illicit relations with some other person. In the circumstances, the appellant used to beat the deceased with a belt. This had continued for a long time. The deceased, therefore, requested her parents to take her to parental home and therefore, for about 15 days, the deceased was kept in her parental home. She had even showed weal marks of beating by belt to parents. The deceased resided at her parental home for two weeks.

. Thereafter, the appellant came to take her back. On the next day, the mediator of the marriage namely, Raghunath Jadhav also came there. In the meantime, it was gathered by the parental relatives that the appellant had married earlier

with one girl and she had died just within few weeks of the marriage, by hanging. Said fact was, however, not made known to the parental relatives by the appellant. Therefore, they questioned the appellant as to whether, he wanted similar fate of the deceased – Geeta also. He, however, promised to behave properly with her and ultimately, the deceased was sent with the appellant. Thereafter, the mother of deceased PW 3 – Janabai went to the house of said Raghunath at Warvan and told him that he should told the appellant that he should prevail over accused no.2 refraining from instigating him. Thereafter, again the dispute arose. The deceased again returned back to her parental home and told not to precipitate the matter. After residing for two days at parental home, she returned back to her matrimonial home. On 3rd July, 1996, she died due to suffering of burn injuries and therefore, the FIR came to be filed.

4] Post mortem notes (Exhibit 7) as well as oral evidence of PW 1 – Dr.Shrikrushna Bhalchandra, Associate Professor, Government Medical College, would show that the deceased had suffered 100% burn injuries and therefore, she died due to shock.

5] In order to prove the case of illtreatment, the prosecution examined three witnesses. PW 2 – Ramesh Raundalkar is the complaint – brother of deceased, who has proved the FIR at Exhibit 15. PW 3 – Janabai is mother of deceased and PW 4 – Ananda Raikar is neighbor of PW 2. PW 4 – Ananda spoke about one incident dated 27th July, 1996 as he had an occasion to see it. According to him, that day, the appellant was intending to take his wife – deceased to his place and she was not willing to go with him. According to this witness, the mediator – Raghunath assured that there would

be no illtreatment to the deceased at the hands of the appellant and therefore, she was sent to her matrimonial home by her parents, however, within five to six days, she died.

6] During investigation, the Investigating Officer PW 5 – Baburao Kanje, P.S.I. of CIDCO Police Station, seized two letters sent by the deceased to her parents. Those were proved by the complainant at Exhibit 16 and 16-A.

7] The appellant/accused has also examined the alleged mediator – Raghunath Jadhav. He deposed that he had no occasion to mediate in the dispute between the parties. The defence of the appellant was that the deceased was suffering from acute pains in her stomach. It was suspicion of the parental relatives that the appellant was not giving proper medical treatment to her. Therefore, finding that the deceased died due to

burn injuries, on suspicion, false allegations are made against him.

8] Learned Addl. Sessions Judge, however, found that the statements of above three prosecution witnesses are consistent. He further relied upon recitals of letter at Exhibit 16-A, which would show that though the deceased was suffering from pains in stomach, present appellant was not allowing her to rest and therefore, conviction and sentence, as detained supra, came to be recorded against the appellant.

9] Learned counsel for the appellant submitted before me that while death of deceased – Geeta has occurred on 3rd July, 1996, the letters at Exhibits 16 and 16-A are dated 11th January, 1996 and 10th May, 1996, respectively. Last of the letters was sent by the deceased just five weeks prior to her death. This letter, however, would show that there

was no illtreatment to her like beating by belt etc. over suspicion of character. On the other hand, her complaint was that she was suffering from stomach pains and present appellant did not like her to rest, though he was arranging for treatment. Therefore, when the deceased has met with an unnatural death, exaggerated and invented allegations are made by the parents of the deceased against the appellant regarding the illtreatment. He, therefore, submitted that the appeal may be allowed.

10] On the other hand, learned A.P.P. submitted that the very letter at Exhibit 16-A coupled with the oral evidence, as detailed supra, would clearly show that on the instigation of the accused no.2, present appellant was unnecessarily suspecting the character of the deceased and over the same, he used to illtreat the deceased, which has resulted into suicide by the deceased. He,

therefore, submitted that no interference in the reasoning of learned Addl. Sessions Judge is warranted.

11] On the basis of this material, following points arise for my determination :-

I. Whether the prosecution has proved that during cohabitation with the deceased, present appellant has treated her with cruelty for six months at Aurangabad ?

II. Whether the prosecution has proved that present appellant has abetted commission of suicide by deceased - Geetabai by subjecting her to cruelty ?

. My findings to the above points are in the negative. The appeal is, therefore, allowed for the reasons to follow.

R E A S O N S

12] The admitted facts would show that the deceased had married to the appellant on 23rd April, 1995. She died on 3rd July, 1996 i.e. within fifteen months. The rustic prosecution witnesses i.e. PW 2 - Ramesh and PW 3 - Janabai, deposed that the deceased had married with the appellant about one and half years prior to her death. They were, however, specific that during last two months the deceased made complaints to them about illtreatment. The letters at Exhibits 16 and 16-A, dated 11th January, 1996 and 10th May, 1996, respectively, however, speak about different story and more particularly, the letter at Exhibit 16-A which is dated 10th May, 1996. It seems that it was written by the deceased just one month and eighteen days prior to her death. It would show that the deceased always used to remain sick due to stomach pain and she was unable to take meal.

She was also suffering from vomiting daily, however, she was required to carry household work and if she was found lying on the bed, the appellant used to be angry with her. She, however, has also written that the treatment to her was continued. More specifically, she communicated that she had no other trouble.

13] The prosecution case would show that after solemnization of the marriage of the deceased with the appellant, the parents of the deceased had come to know that the first wife of the appellant had died due to hanging within few days from her marriage. The recitals of the last letter of the deceased to her parents, would show that present appellant used to be angry as and when he found that the deceased was taking rest due to her stomach pains. In the situation, the deceased committed suicide.

. All these facts might have, naturally, enraged the parents of the deceased. Had there been any illtreatment to the deceased like beating by belt etc. over suspicion of her character, the deceased would not have written to her parents that there was no other trouble to her.

14] The reasoning of learned Addl. Sessions Judge would show that learned Addl. Sessions Judge was prejudiced by the fact that present appellant used to be angry with the deceased if she was found lying on the bed due to her stomach pains. Learned Addl. Sessions Judge failed to appreciate that the same cannot be treated as cruelty, as defined under Section 498-A of the Indian Penal Code. Learned Addl. Sessions Judge further failed to advert to the recitals in the very same letter, that the deceased had no other trouble from in-laws and the appellant used to impart medical treatment to her. In that view of the matter, in

my view, learned Addl. Sessions Judge ought to have extended a reasonable benefit of doubt to the present appellant also.

15] In the result, the following order :-

A] The appeal is hereby allowed.

B] The impugned judgment and order dated 31st July, 2001 passed in Sessions Case No.116 of 1997 by learned Addl. Sessions Judge, Aurangabad, thereby recording conviction of the present appellant for the offences punishable under 498-A and 306 of Indian Penal Code and the consequential sentences, is hereby set aside.

. Instead, the appellant is acquitted of the offences punishable under 498-A and 306 of the Indian Penal Code.

C] His bail bonds shall stand cancelled.

D] Muddemal property involved in the offence be disposed of as per the directions of learned Addl. Sessions Judge, Aurangabad.

[M.T. JOSHI, J.]

kbp