

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Revision Application No. 283 of 2002

Gyanoba s/o. Dagdoba Lamture,
Age : 45 years,
Occupation : Agriculture,
R/o. Kapleshwar Sangvi,
Taluka : Loha,
District : Nanded.

.. Revision Applicant.

versus

1. Balaji s/o. Namdeo Bomble,
Age : 35 years,
Occupation : Agriculture,
R/o. Ingegaon,
Taluka & District : Nanded.
2. Sushilabai w/o. Balaji Bomble,
Age : 45 years,
Occupation : Agriculture,
R/o. As above.
3. Vasant s/o. Balaji Bomble,
Age : 20 years,
Occupation : Agriculture,
R/o. As above.
4. The State of Maharashtra,
Through P.S.O.,
Nanded Gramin Police Station,
Taluka & District : Nanded.

.. Respondents
(Nos.1 to 3 -
Original accused
nos.1 to 3)

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Mrs. R.D. Reddy, Advocate, for the revision applicant.

*Mr. A.S. Gandhi, Advocate, holding for
Mr. P.V. Mandlik, Senior Advocate, for respondent
nos.1 to 3.*

*Mr. S.D. Kaldate, Additional Public Prosecutor,
for respondent no.4 - State*

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CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 9TH APRIL 2015

ORAL JUDGMENT :

1. Heard Adv. Mrs. R.D. Reddy for the revision applicant, Adv. Mr. A.S. Gandhi h/f. Sr.Adv. Mr. P.V. Mandlik for respondent nos.1 to 3, and learned APP Mr. S.D. Kaldate for respondent no.4 - State.

2. The present applicant happens to be the original complainant in Crime No. 76/1998, registered at Gramin Police Station, Nanded. The respondent nos.1 to 3 herein were charged for offences punishable under Sections 306 and 498A, read with Section 34 of the Indian Penal Code, and respondent nos.1 to 3 have been acquitted of all the charges levelled against them, vide judgment and order dated 31st July 2002, passed by the learned Ad hoc Additional Sessions Judge, Nanded, in Sessions Case No. 67/1999. Hence, this Revision Application.

3. Such of the facts necessary for the decision of this Revision Application are as follows :-

That, on 21-4-1998, present revision applicant lodged a report at the Police Station, alleging therein that his daughter Arunabai was married to Vasant s/o. Balaji Bomble, prior to two years i.e. in 1996. That, Arunabai

was residing in joint family. She was harassed and illtreated by the members of her matrimonial family on the ground that her parents had not extended honours to the relatives of the groom and that, she was not given gifts at the time of marriage and thereafter. That, on one occasion, he had given a clear understanding to the son-in-law and his son-in-law had agreed that no illtreatment would be meted out to her. That, on 19th April 1998, his daughter had allegedly consumed poison and was admitted in the hospital. Upon receiving said information, the parents and relatives of the victim had visited her in the hospital. However, she succumbed to the poison on 21st April 1998, and thereafter Criminal Law was set into motion. On the basis of this report, Crime No. 76/1998 was registered against the accused for offences punishable under Sections 306, 498A, read with Section 34 of the Indian Penal Code. After completion of investigation, charge sheet was filed. The case was committed to the Court of Sessions and registered as Sessions Case No. 67/1999. The prosecution examined as many as 10 witnesses to bring home the guilt of the accused. Upon appreciating the evidence adduced by the prosecution, the learned Additional Sessions Judge had acquitted the accused.

4. The learned Counsel for the applicant submits that the learned Sessions Court has not appreciated the evidence in its proper perspective. That, a young woman died in her matrimonial home. She had consumed poison. According to the learned Counsel, the victim had died in her matrimonial home and, therefore, it can be presumed that she was in the custody of the accused persons and it was incumbent upon them to demonstrate the special circumstances in which she died. That, a duty was cast upon accused persons to offer explanation under Section 106 of the

Indian Evidence Act. It is further submitted that the victim had informed her parents on several occasions, that she was being meted out with illtreatment and cruelty. That, only when she could not bear with the cruelty any more, she had committed suicide and, therefore, it has to be inferred that the accused had abated the commission of suicide. The learned Counsel further submits that the very fact, that she had committed suicide in her matrimonial home, within seven years of marriage, is sufficient to hold that the suicide was abated by the members of her matrimonial family.

5. As against this, the learned Counsel for respondent nos.1 to 3 / original accused submits that it is incumbent on the prosecution to prove that the victim had committed suicide due to the abetment or instigation at the hands of the accused persons. The learned Counsel submits that Section 107 of the IPC contemplates that, *‘a person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or intentionally aids, by any act or illegal omission, the doing of that thing’*. The learned Counsel for respondent nos.1 to 3 submits that there is no evidence worth its name on record, to remotely indicate that the accused persons had either instigated the victim to commit suicide or had intentionally aided by any act or illegal omission to commit suicide. That, Section 498A of the IPC is an independent offence by itself. That, on the day of the incident, there is nothing to indicate that the accused persons were present when the victim was consuming poison and, therefore, it cannot be said that they

had aided or facilitated the consumption of poison. Hence, according to the learned Counsel for respondent nos.1 to 3, the learned Additional Sessions Judge has rightly acquitted the accused of all the charges. It is also submitted that the offence under Section 498A of the IPC was not proved.

6. The learned Additional Sessions Judge has observed that the prosecution has failed to give any particular incident / instance to indicate the nature of illtreatment or cruelty meted out to Arunabai. The substantive evidence of the witnesses appears to be full of inherent omissions and contradictions and, therefore, the learned Additional Sessions Judge has rightly held that there is no cogent and convincing evidence worth its name to arrive at a conclusion that the accused had abetted the commission of suicide.

7. The learned Counsel for respondent nos.1 to 3 also further submits that Sub-Clause 3 of Section 401 of the Code of Criminal Procedure, 1973, contemplates that, *'Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction'*. In view of this, the Revision Application deserves to be dismissed as being sans merits.

8. There is no prayer for remanding the matter to the Sessions Court and, in any case, it would be a futile exercise since the incident is of the year 1999 and the Revision Application is being heard practically after 13 years from the date of filing of the Revision Application.

(6)

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9. In the result, the Revision Application being sans merits, is dismissed. Rule is discharged.

(SMT. SADHANA S. JADHAV)
JUDGE

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