

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 636 OF 2002

The State of Maharashtra

APPELLANT

VERSUS

1. Mohan Ramchandra Devikar
Age : 25 years
2. Ramchandra Baba Devikar,
Age : 48 years
3. Suman Ramchandra Devikar,
Age : 48 years
4. Subhash Ramchandra Devikar,
Age : 23 years
5. Dagdu Ramchandra Devikar,
Age : 21 years
6. Babu Baba Devikar,
Age : 40 years,

All r/o Math, Tq. Shrigonda,
District Ahmednagar

RESPONDENTS

Mr. V.P. Kadam, A.P.P. for the appellant/State
Mr. N.B. Suryawanshi, Advocate holding for Mr. M.Y.
Deshmukh, Advocate for the respondents

CORAM : M.T. JOSHI, J.

DATE : 15/06/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the recording of acquittal of the respondents of the offences punishable under section 498-A and 306 read with section 34 of the I.P. Code, by the learned IInd Adhoc Additional Sessions Judge, Ahmednagar, vide judgement and order dated 17.07.2002, passed in Sessions Case No. 218/1999, the present appeal is preferred by the State.
3. Deceased Jijabai i.e. the wife of present respondent No. 1 Mohan had married to him on 11th June, 1997. The complainant PW3 Narayan is her father while PW4 Gangubai is her mother. After the marriage, deceased Jijabai started residing with the present respondents. The respondent No. 1 – Mohan is husband of deceased Jijabai while rest of the respondents are his relatives, as detailed in the complaint. The deceased died due to the consumption of insecticide i.e. organo-phosphorous on 29th September, 1999. In the circumstances, on 30th September, 1999, the complaint came to be filed.

4. In the complaint, it is alleged that after 5 to 6 months of the normal cohabitation, all the present respondents started illtreating deceased Jijabai on the ground that no proper respect was given in the marriage and reasonable amount was not spent in the marriage. Therefore, respondent No. 1 Mohan asked deceased Jijabai to bring an amount of Rs. 40,000/- from her parents for purchasing a motorcycle for him. Over that demand, all the respondents started giving illtreatment to her. Once, deceased Jijabai was sent back to her paternal house for that purpose. Complainant Narayan, however, gave an understanding to the deceased that at that time, he did not have any money and whenever the funds would be available to him, he would give the same and accordingly, he sent her back to her matrimonial home. An understanding was also given to the respondents in this regard. However, the illtreatment continued. The complainant as well as the respondents have their agricultural land in the vicinity. In the circumstances, as and when deceased Jijabai had an occasion to meet her parents in the field, she used to tell them about the illtreatment over the demand of money. When the deceased had come to her parents for delivery about one and half

year prior to the incident and returned back, still the illtreatment continued to her. Prior to one month of the incident, deceased Jijabai had visited her parents' house for Rakhi Pournima festival, at that time, she had told about the illtreatment given to her by the respondents. Three to four days prior to the date of death of the deceased, she was sick. Therefore, complainant Narayan and respondent No. 1 Mohan took her to Shirur hospital and was admitted there. After discharge, the deceased was brought back to the matrimonial home. At that time, complainant Narayan asked the respondents to send Jijabai to his house for rest, but the accused refused for the same by saying that first, their demand should be complied with. They gave threat to the complainant and beat Jijabai with fists. In the circumstances, on 29th September, 1999, the deceased died due to consumption of poison and therefore, the complaint came to be filed on next date i.e. 30th September, 1999.

5. The usual investigation like conduct of inquest panchanama, preparation of spot panchanama, collection of post-mortem report, sending the viscera to the

chemical analyzer and recording the statements of the witnesses, was undertaken and ultimately, the chargesheet was filed in the trial court.

6. Before the learned Sessions Judge, in all five witnesses were examined to prove the above facts. The material witnesses were the father and mother of deceased Jijabai. The learned Sessions Judge came to the conclusion that the statements of the parents did not inspire any confidence and therefore, the acquittal of the respondents came to be recorded. Hence, the present appeal.

7. Mr. V.P. Kadam, learned A.P.P. submitted that the learned Sessions Judge has taken a microscopic view regarding the statements of the witnesses qua the FIR filed by complainant Narayan. Further, though delay in filing FIR is explained, the learned Sessions Judge disbelieved the version of the prosecution. Hence, he submitted that the appeal be allowed.

8. On the other hand, Mr. N.B. Suryawanshi, learned counsel for the respondents, submitted that the

evidence on record would show that just about 3 to 4 days of the death of the deceased, she had abortion and therefore, under the depression, she might have committed suicide. However, the said incident is made out as a suicide due to illtreatment only out of suspicion. He, therefore, supported the reasoning of the learned Sessions Judge.

9. On the basis of above material and the submissions advanced on behalf of both sides, the following points arise for my determination :-

- (I) Whether the prosecution has proved that due to the cruelty meted out to deceased Jijabai, she has committed suicide at village Math, Taluka Shrigonda on 29th September, 1999 ? and
- (II) Whether the present respondents had abetted the commission of suicide by the deceased ?

My finding to both the above points is in negative. The appeal is, therefore, dismissed, for the reasons to follow :

R E A S O N S

10. There is no dispute that deceased Jijabai has died due to consumption of the insecticide. Her death is, therefore, proved as suicidal death. However, the point is as to whether the present respondents have abetted the commission of suicide. To prove this fact, we have the statements of the parents of the deceased. The learned Sessions Judge has correctly observed that though admittedly the deceased had resided with the respondents for a period of two years, there is no independent witness who could have mediated between the parties and who could have heard about the complaint of the deceased regarding the illtreatment by the respondents on the demand of money of Rs. 40,000/-.

. Further, though, for a moment, we keep aside the issue of filing of belated FIR, even there is an admitted fact that on 29th September, 1999, the complainant Narayan i.e. the father of the deceased was present at the time of preparation of the inquest panchanama by the police, still there is a vast difference between the detailed statement made by him in

the court and the FIR that was lodged with the police on the next date.

11. The learned Sessions Judge has given the details of these vital omissions. The omissions included making the grievance of illtreatment by the deceased at specific time and place and the reference to Rakhi Pournima festival is made in the deposition. Further, in the deposition, it is stated that in the hospital at Shirur, when the deceased was admitted 3/4 days prior to the incident, similar complaint was made. Further, after returning from the hospital, as per the version of witness, there was again demand of money and illtreatment. All these statements regarding time and place of making the statement by the deceased to her parents is missing in the FIR. Further, the mother of the deceased — Gangubai has admitted, in her cross-examination, that at the time of recording her statement by the police, her husband and her father-in-law told her to give statement as per the narration given in the complaint. If all these facts are taken into consideration, then it would be clear that the learned Sessions Judge has taken a reasonable and probable view

of the material before him. In the circumstances, in the present appeal against acquittal, there is no need to interfere in the reasoning forwarded by the learned Sessions Judge. Hence, the appeal fails and it is liable to be dismissed.

12. In the result, the appeal is hereby dismissed. The bail bonds, if any of the present respondents shall stand cancelled.

[M.T. JOSHI]
JUDGE

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