

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 647 OF 2002

The State of Maharashtra,
Through Police Station Officer,
Police Station, Dindrud,
Tal. Majalgaon, Dist. Beed

.. Appellant
(Orig. Complainant)

VERSUS

- 1] Sugandhrao S/o Dagdu Mote,
Age : 25 years,
- 2] Dagdu S/o Sarjerao Mote,
Age : 70 years,
- 3] Rakminibai W/o Dagdu Mote,
Age : 65 years,
- 4] Sadashiv S/o Dagdu Mote,
Age : 30 years,
- 5] Bandu @ Abasaheb S/o Dagdu Mote,
Age : 28 years,
- 6] Shivkanya W/o Sadashiv Mote,
Age : 27 years,
- 7] Shilabai W/o Bandu @ Abasaheb Mote,
Age : 26 years,

All by Occupation : Agri.,
R/o Salimba Tal. Majalgaon,
Dist. Beed

.. Respondents
(Orig. Accused)

Mr. S.R. Palnitkar, A.P.P. for the appellant/State
Mr. S.M. Godsay and Mr. S.K. Naikwade, Advocate for
respondent nos.1 to 7

CORAM : M.T. JOSHI, J.
DATE : 06/04/2015

ORAL JUDGMENT :

1. Heard both sides.

2. Aggrieved by the recording of acquittal in favour of the present respondents from the offences punishable under section 498-A r/w. 34 and 306 of the Indian Penal Code by the Ist Adhoc Additional Sessions Judge, Beed vide judgment and order dated 24/07/2002, the present appeal is preferred by the State.

3. The prosecution case in nutshell is as under:-

. That deceased Sangita, the daughter of P.W. 1 – Bankat and P.W. 4 – Gavalanbai was married to respondent no.1-Sugandhrao about two years previous to her unnatural death which has occurred on 24/01/1997. After the marriage, deceased started residing in the joint family of the respondents. Within two years of her married life, there was no issue to the couple. For the initial period of six months, she was treated well by her in-laws.

. Later-on, however, deceased started complaining that respondent no.1 – Sugandhrao used to tell the deceased that she was not of his choice while the other

in-laws used to say that she was not able to carry the daily household work and was uneducated and over that, they always used to nag her and give mental ill-treatment. The maternal relatives used to console her. Thereafter, for the Panchami festival, deceased was brought to the house of P.W. 2 and P.W. 3. At that time, she told that the ill-treatment continued on various grounds including the ground that the deceased was not able to conceive. When the deceased went to her parents house, respondent no.1 told her that in future he would not allow her to co-habit with him and if she wanted to co-habit with him, she should bring an amount of Rs.10,000/- from her father.

. Thereafter, none from the side of the respondents came to take back the deceased. Therefore, P.W. 1 – Bankat went to the house of his relatives i.e. P.W. 2 – Bhagwan Deokate and P.W. 3 – Pandurang Tandale and took the deceased with them to the house of respondents and kept her there.

. In the situation, on 24/1/1997, the information was received that the deceased has died due to poisoning. The father of the deceased attended the

final rites, cremation and on the next day, filed the F.I.R. at Exhibit 64 with Police Station, Dindrud. The necessary investigation was carried. The post-mortem note was collected. The statements of the witnesses were recorded and the chargesheet was filed.

4. Upon committal of the case, the learned Sessions Judge framed the charges and caused the trial. Before the learned Sessions Judge, in all 7 witnesses were examined. Out of them, P.W. 1 to 4 are the relatives of the deceased while rest of the witnesses are the panch witnesses and the Police witnesses.

5. Case of the respondents is that as Sangita was unable to conceive, she had ended her life in depression and, therefore, only to take revenge, a false case is slapped against them. The learned Sessions Judge disbelieved the prosecution case finding the contradictions and material omissions in the evidence. Hence, the present appeal.

6. Mr. Palnitkar, learned A.P.P. submits that the prosecution has examined four witnesses to prove the fact of ill-treatment to the deceased during her lifetime. The fact of unnatural death due to poisoning

is an admitted fact in view of the inquest panchanama and the post-mortem report. In the circumstances, the learned Sessions Judge has unnecessarily taken into consideration the trivial contradictions and omissions.

7. On the other hand, learned counsel for the respondents Mr. Naikwade submits that there were material contradictions regarding the cause of ill-treatment i.e. demand of money and, therefore, the learned Sessions Judge has taken a reasonable and probable view.

8. On the basis of this material, following points arise for my determination:-

I] Whether the prosecution has proved that during two years from the cohabitation of the deceased, all the present respondents in furtherance of their common intention, subjected the deceased to cruelty and harassment on various grounds, including the demand of Rs.10,000/-, of such a nature that the deceased was likely to drive herself to commit suicide?

II] Whether the prosecution has proved that by treating the deceased cruelly, as detailed above, the present respondents had abetted the

commission of suicide of the deceased?

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

R E A S O N S

9. The evidence on record would show that the deceased was married to respondent no.1-Sugandhrao sometime in the month of January, 1995 i.e. two years prior to her death. She died on 24/1/1997. It means that between the said period, there were two Panchami Festivals (Nagpanchami Festivals), which come in the Shravan month according to the Hindu calender and two Diwali festivals, which normally fall in the month of October / November as per the English calender. In the light of this situation, it is necessary to appreciate the evidence on record.

. P.W. 1 Bankat – the father of the deceased deposed that initially, the ill-treatment was over the trivial issue that the deceased did not know how to carry the household work and she was not good looking, however, when he brought deceased Sangita for the

festival of Panchami, she told him that she was being harassed for bringing an amount of Rs.10,000/-. Therefore, he went to P.W. 2-Bhagwan and P.W.3-Pandurang i.e. his relatives and told them regarding this ill-treatment. They took her back to the house of the respondents, so that there would be good treatment in future.

. Similar is the statement of P.W. 4 - Gavalanbai the mother of the deceased.

10. As the festival of Panchami falls in rainy season, one can accept the fact that P.W. 2 - Bhagwan, who, according to him, had taken deceased Sangita to his house for Diwali festival, at that time, Sangita had narrated him about the ill-treatment over a demand of money. However, P.W. 2 - Bhagwan, is silent on the aspect regarding the ill-treatment to the deceased over demand of money. Not only this, he did not depose that at any time, P.W. 1 - Bankat had narrated him about the ill-treatment to the deceased. Sangita stayed about 8-15 days during the Diwali festival at the house of P.W.2 - Bhagwan. During that time, she told that she was being ill-treated on the ground of being uneducated and

was not liked by the in-laws. He was silent on the issue as to whether the ill-treatment was on the count of demand of money.

. Similar is case of P.W. 3 – Pandurang. He did not depose that at any time, P.W. 1 had told him about the demand of money or he was instrumental in taking the deceased Sangita to the house of the respondents alongwith other witnesses. The defence has brought during the cross-examination that the marriage between the couple was settled after each of them had seen each others and also after taking vital information regarding each others. This cross-examination was with the intention that there could not have been any ill-treatment on the count that the deceased was not beautiful or that she was uneducated as the marriage was settled after knowing everything about the bride and the bridegroom.

11. The learned Sessions Judge has taken into consideration all these facts and took a reasonable and probable view of the matter. In the circumstances, in the present appeal against acquittal, there is no need to interfere in the findings recorded by the learned

Sessions Judge. Hence, the following order:-

12. The Appeal is hereby dismissed. Bail bonds, if any, of the present respondents shall stand cancelled.

[M.T. JOSHI]
JUDGE

arp/