

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

CRIMINAL REVISION APPLICATION NO. 340 OF 2002

Shaligram Murlidhar Popalghat,
age 22 years, R/o Nimgaon,
Tq. Kopergaon,
District Ahmednagar

...Applicant

VERSUS

The State of Maharashtra

...Respondent

.....
Shri P.N.Sonpethkar, advocate for applicant
Shri V.P.Kadam, A.P.P. for respondent
.....

CORAM : V.M.DESHPANDE, J.

DATED : 4th March, 2015

ORAL JUDGMENT : -

1] The present Revision is directed against the judgment and order, passed by the learned Additional Sessions Judge, Kopergaon, dated 16.11.2002 in Criminal Appeal No. 10 of 1995, whereby the learned lower appellate court, though acquitted the present applicant for the offence punishable under Section 304-B of the Indian Penal Code, maintained the conviction imposed upon the applicant by the learned Vth Assistant Sessions Judge, Ahmednagar, dated 14.2.1995 in Sessions Case No. 184 of 1992 holding the applicant guilty for

the offence punishable under Section 498-A of the Indian Penal Code.

2] The present Revision needs no detailed elaboration of the facts.

There is no dispute that the marriage of deceased Satyabhama was performed with the present applicant on 19.5.1985 and she died unnatural death on 29.4.1991.

3] The applicant faced a charge for the offences punishable under Sections 498-A and 304-B of the Indian Penal Code. In order to bring home the guilt of the applicant, though the prosecution examined six witnesses, only two witnesses are material, namely first informant Eknath Popalghat (PW 4) the father of Satyabhama and PW 6 Narayan uncle of deceased Satyabhama.

4] The learned trial court, on appreciation of the evidence of the prosecution case, found the applicant guilty of committing the offences punishable under Sections 498-A and 304-B of the Indian Penal Code. The applicant was directed to suffer rigorous imprisonment for three years and to pay fine of Rs.1,000/-, in default to suffer further rigorous imprisonment for three months for the offence under Section 498-A of the Indian Penal Code, and also for the offence under Section 304-B of the Indian Penal Code the applicant was directed to suffer rigorous imprisonment for seven years and to pay fine of

Rs.1,000/-, in default to suffer further rigorous imprisonment for one year.

5] Feeling aggrieved thereby, Criminal Appeal No. 10 of 1985 was carried with the Sessions Judge, Ahmednagar. The case was allotted on the file of Additional Sessions Judge, Kopergaon. The Additional Sessions Judge, on 16.11.2002 partly allowed the appeal filed on behalf of the applicant and thereby set aside the conviction of the present applicant for the offence punishable under Section 304-B of the Indian Penal Code, however, he maintained the conviction and sentence imposed upon the applicant for the offence punishable under Section 498-A of the Indian Penal Code. Hence, this Revision.

6] I have heard Shri P.N.Sonpethkar, learned counsel for the applicant and Shri V.P.Kadam, learned Additional Public Prosecutor for the State.

I have gone through the relevant evidence of the first informant Eknath Popalghat (PW 4) and the uncle of the deceased Narayan (PW 6).

7] The learned trial court has rightly recorded a finding that the ingredients of the offence punishable under Section 498-A of the Indian Penal Code are clearly established against the present applicant.

8] In that view of the matter, and since there is no perversity in the judgment and order of the learned lower appellate court, I see no reason to differ from the findings recorded by the learned lower appellate court. Hence, I confirm the conviction of the applicant for the offence punishable under Section 498-A of the Indian Penal Code.

9] The next question is of sentence. The learned trial court has directed the applicant to suffer rigorous imprisonment for three years.

10] It would be useful to make a reference in the present judgment that though the deceased died unnatural death, from the discussion made by the learned lower appellate court, it is clear that her suicide was not outcome of any illtreatment by the present applicant.

11] Be that as it may, the record shows that the applicant was arrested in the present case on 1.5.1991. The material available on record shows that he has furnished the bail bonds before the learned trial court on 28.1.1993. Thus, he was in jail from 1.5.1991 to 28.1.1993.

During the pendency of appeal, the applicant was on bail, however, the judgment of the appellate court shows that on 16.11.2002 the applicant was taken into custody.

The applicant moved this Revision along with an application for bail. This court granted bail to the applicant on

10.4.2003. Thus, the applicant was in jail from 16.11.2002 to 10.4.2003, which is more than 5 months. Thus, it is clear that the total custody period of the applicant is more than 2½ years.

12] Looking to the fact and the observations made by the learned lower appellate court in the judgment, especially in paragraph 41, I feel that the ends of justice would be served by reducing the sentence from three years to the period already undergone by the applicant in jail.

13] In the result, the Criminal Revision Application is partly allowed. The conviction imposed upon the present applicant for the offence punishable under Section 498-A of the Indian Penal Code is hereby confirmed. However, the order of sentence is modified from three years to the period already undergone by the applicant in jail. Rule is made absolute accordingly.

[V.M.DESHPANDE, J.]

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