

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

CRIMINAL APPEAL NO.576/2002

The State of Maharashtra
(through Sonyabapu Rambhau
Gadekar)

.. APPELLANT
(Ori.Applicant)

Versus

- 1] Kishor Ramdas Dabhade
Age 25 yrs, Occp.Agril.,
- 2] Ramdas Fakira Dabhade
Age 67 yrs, Occp.Agril.,
- 3] Saraswati Ramdas Dabhade
Age 60 yrs, Occp.Household
- 4] Suresh @ Vijay Somnath Borude
Age 35 years, Occp. Service
- 5] Meerabai Suresh Borude
Age 32 yrs, Occp.household
- 6] Bhagwan Trimbak Gaikwad
Age 34 yrs, Occp.agril.
- 7] Alka Bhagwan Gaikwad
Age 25 yrs, Occp.household
All r/o Taklibhan, Tq. Shrirampur
Dist.Ahmednagar.

.. RESPONDENTS
(Ori.accused)

...
Shri P.N.Mulay, APP for appellant State
Shri N.B.Suryawanshi, Adv. for respondent nos. 1 to 3.
...

CORAM : M.T.JOSHI,J.
DATED : 27TH AUGUST, 2015

ORAL JUDGMENT :-

Heard both sides.

2] Aggrieved by the judgment and order passed by the I Ad-hoc Additional Sessions Judge, Shrirampur, dated 27/6/2002 in Sessions Case No.80/1998, acquitting the accused-respondents for the offences punishable under Sections 498-A, 306 r.w. 34 of IPC, the State has preferred the present Appeal.

Leave is already refused as against respondent nos.4 to 7 by this Court vide order dated 15/7/2004.

The prosecution case in short is as under :

That respondent no.1 Kishor is the husband while respondent nos.2 and 3 are the parents-in-law and respondent nos.4 to 7 are either sister-in-law or husband of sister-in-law of deceased Sangita. Deceased Sangita was married with respondent no.1 on 1/2/1998. She died due to consumption of poison on 4/6/1998. On 5/6/1998 her father P.W.1 Sonyabapu filed complaint.

3] Complaint at Exh.26 would reveal that from the marriage, till 11/3/1998, the maternal relatives did not heard of any ill treatment at the hands of the present respondents to deceased Sangita. On 11/3/1998, however, deceased Sangita was escorted to her parents

house by P.W.1 Sonyabapu for Holi festival purpose. At that time, she told him that all the present respondents used to beat and ill treat Sangita over a demand of Rs.25,000/- for digging a bore well and to purchase a motor pump for their land. P.W.1 after the festival, escorted deceased to her matrimonial home at Taklibhan on 30/3/1998. At that time, he gave understanding to all the respondents by saying that after few days he would meet the demands.

Thereafter, on 29/4/1998, Sangita made phone call to P.W.1 and asked him to visit her house. At that time, when, P.W.1 went to the house of the deceased, she was found to be ill. She complained that not only respondents continued to ill treat her but they even ignored to give her medical treatment. She therefore, asked P.W.1 to take her back to his house. Despite the reluctance of the respondents, P.W.1 took the deceased to his house at Dudh, where medical treatment was given to her.

Thereafter, P.W.1 alongwith his brother P.W.4 Krishna, one villager P.W.8 Manik and some other persons came to the house of the respondents. At that time, they gave understanding to the present respondents, upon that, respondent no.2 i.e. her father-in-law assured that there would be no ill-treatment. In these circumstances, the deceased was reached to the house on 29/4/1998 by P.W.4 Krishna. However, thereafter deceased Sangita on 2-3 occasions made a phone call and told P.W.1 regarding the ill treatment at the hands of the respondents. The respondents however, abused P.W.1 over the said phone itself and therefore, P.W.1 did not again visit the house of the respondents and the deceased.

In these circumstances, on 4/6/1998, the complainant received information about the deceased Sangita being seriously ill. When he reached at German hospital at Shrirampur, the deceased was already dead. In these circumstances, on the next date, complaint came to be filed.

4] The investigation was carried by P.W.10 ASI Kute of Shrirampur taluka police station. Inquest panchanama as well as spot panchanama was already recorded. The post mortem note was collected. Viscera was sent to the Chemical analyser. Statements of witnesses were recorded. Chemical analyser report was collected and ultimately charge sheet was filed by him.

5] The defence of the respondents was as under :

That while respondent no.1 is M.A., the deceased was graduate. She had taken education in a city like Loni, while respondents are residents of village i.e. Taklibhan. All of them are agriculturists. The deceased wanted that not only respondent no.1 should get a permanent job, but she should also become teacher. On the other hand, she was required to carry out household as well as agricultural work in the house of the respondents. A day prior to the death of the deceased, her grand mother and her brother i.e. P.W.12 Rajendra came to her house for attending final rites ceremony of a relative. At that time, P.W.12 Rajendra told her that her admission in the D.Ed. College is not possible. This has added to the nervousness of the deceased and therefore, she might have committed suicide. In fact, the respondents 14 acres land was irrigated due to canal water. There was no need to take any borewell, however, only out of suspicion, because of sudden death of deceased, false complaint came to be filed, therefore, they claimed

acquittal.

6] Before the learned Sessions Judge, besides witnesses like medical officer, investigating officer, four witnesses regarding material facts were examined. P.W.1 Sonyabapu is the father, P.W.3 Vilas is the brother, while P.W.4 Krishna was uncle of the deceased. P.W.8 Manik was examined to show that he has accompanied P.W.1 Sonyabapu and other relatives to village Taklibhan to give understanding to the respondents. This last witness did not support the prosecution case while relatives of the deceased had deposed on the line of the prosecution case.

7] During evidence, it was admitted that the present respondent no.1 is M.A., and carrying agricultural work. The deceased had taken education at Loni which is comparatively bigger city having various colleges. It was also admitted that P.W.4 Krishna uncle of the deceased was a Director of one Pravara Education Society. Her maternal uncles were also well settled in the city. Further the learned Sessions Judge has taken into consideration the material contradictions and omissions between the statements of these witnesses and between their earlier statements to the police and in the statement before the Court. In these circumstances, acquittal was recorded. Hence the present appeal.

8] Learned APP submits that the evidence on record would show that just within four months and two days of her marriage, deceased met with death due to consumption of poison. Some minor contradictions and omissions in the statements of prosecution witnesses are unnecessarily amplified by the learned Sessions Court, he therefore, submits that the appeal be allowed.

9] On the other hand, Mr.Suryawanshi, submits that the evidence generally would show that the respondents side is well off. Therefore, there was no need to make any demand of money for digging the borewell. On the other hand the admitted fact is that respondent no.1 though M.A. was an agriculturist. It is admitted fact that the deceased required to carry out household as well as agricultural work in the house of the respondents. However, though one day prior to the death of the deceased, her grand mother and her brother P.W.12 Rajendra had met the deceased, none of them had narrated any complaint from the mouth of the deceased to any of their elders including complainant P.W.1 Sonyabapu at the time of filing of the FIR. In these circumstances, he submits that the learned Sessions Judge has taken proper view of the matter and therefore, no interference in the Appeal is called for.

10] On the basis of this material, following points arose for consideration :

a] Whether prosecution has proved that the present respondents during the cohabitation of the deceased i.e. from the date of marriage till the death of deceased Sanginta at Taklibhan in furtherance to their common intention subjected cruelty to deceased.

b] Whether prosecution has proved that the respondents have abetted commission of suicide by deceased on 4/6/1998.

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

REASONS

11] The evidence generally would show that the respondents family is well off agriculturist. The respondent no.1 is M.A., still carrying work of agriculture. On the other hand, deceased had studied upto Graduation and had occasion to take education at city like Loni. After the marriage however, she was required to carry agricultural as well as domestic work in a village in the family of the respondents. In this background, the learned Sessions Judge has taken into consideration the omission as well as contradictions between the statements of the relevant witnesses as well as between their own statements recorded by police and in the witness box.

P.W.1 Sonyabapu the father though in the FIR has alleged that deceased Sangita told him that all the respondents had beaten, starved and ill treated her over the demand of Rs.25000/-, in the witness box he made specific allegations against respondent no.1 i.e. the husband only. The rest of the witnesses had generally deposed that deceased Sangita at that time had made some complaint against the in-laws. There is also a contradiction as to whether on 13/4/98 P.W.1 Sonyabapu reached the deceased to Taklibhan by taking the witnesses as stated by him as none of the other witnesses had deposed about the same and specifically deposed that the father and uncle reached the deceased to the house. It is to be noted that one of these claimed witnesses, i.e. P.W.8 refused to support the prosecution on this point.

12] Further there is a contradiction as to what statement was made by deceased Sangita on 28/4/1998 when P.W.1 visited her house

and found her ill. Similarly, P.W.4 Krishna as against his statement recorded by police deposed that he went to the house of Sangita, at that time deceased informed him that all the respondents were harassing him and were not providing food. Taking into consideration all these aspects, the learned Sessions Judge has taken reasonable and proper view of the matter, therefore, in the present appeal against acquittal no interference in the judgment and order is called for. In the result, following order :

ORDER

Appeal is hereby dismissed. Bail bonds if any of the respondents shall stand cancelled. Disposal of the property be made as directed by learned Sessions Judge.

(M.T.JOSHI,J.)

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