

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4133 OF 2014

Somnath s/o. Karbhari Bhand **Applicant.**

Versus

The State of Maharashtra & Ors. **Respondents.**

Mr. N.B. Narwade, Advocate for applicant.

Mr. N.B. Patil, APP for State.

Mr. K.B. Autade, Advocate for respondent Nos. 2 to 6.

CORAM : T.V. NALAWADE, J.
DATED : 18th February, 2015.

ORDER :

1. The application is filed under section 439 (2) of Cr.P.C. for cancellation of bail granted by the learned Additional Sessions Judge to the respondents in Criminal Misc. Application No. 105/2014. The learned Additional Sessions Judge has granted bail to the respondents in a crime registered for the offences punishable under sections 498-A, 304-B, 306 r/w. 34 of I.P.C. Both the sides are heard. The learned APP supported the application.

2. The crime is registered on the basis of report given by father of the deceased. Deceased was given in marriage to

respondent No. 2 on 22.2.2014. It is contended that at the time of marriage dowry of Rs. 51,000/- was given. The deceased had completed Nursing Course and respondent No. 2 was educated up to D.Ed. Respondent No. 2 was in search of job.

3. Allegations are made that after one month of the marriage, respondent No. 2 and the deceased visited the house of parents of deceased and on that occasion, respondent No. 2 said that he was in need of Rs. four lakh for seeking job. It is contended that the complainant said that he was not in a position to give such amount, but he would help respondent No. 2 to some extent somehow. It is contended that on 17.5.2014 in the house of respondents talk was again opened by the husband and his relatives and demand was again made. It is the case of complainant that on 25.6.2014 when complainant brought the deceased to his house for celebration of some festival, the deceased again disclosed that there was illtreatment and the husband and his relatives had again asked her to bring Rs. four lakh from him. It is the case of complainant that on 27.6.2014 when respondent no. 2 visited his house, complainant requested respondent No. 2 to treat the deceased properly and he promised to give some amount. They left his house on 28.6.2014. The deceased probably committed suicide by

jumping into well on 4.7.2014.

4. The learned counsel for the applicant and the learned APP submitted that the P.M. report shows that there were as many as 11 injuries found on the dead body and they were antimortem in nature. They submitted that this record is not at all considered by the learned Additional Sessions Judge. It was submitted that if there were injuries on the dead body, those injuries were within the knowledge of atleast husband, so, the learned Additional Sessions Judge has committed error in granting relief to the husband.

5. This Court has carefully gone through the P.M. report describing the injuries. All the injuries were on anterior side of the dead body. This Court has gone through the spot panchanama. The depth of the well was 70 fts. and the water was up to the depth of 12 fts. The construction was not made up to the bottom and the construction was up to 32 feet from the top. All the circumstances are required to be kept in mind at the time of appreciation of the material.

6. The submissions made show that Investigating Officer has not filed chargesheet. This Court has seen the report

of Investigating Officer. There is no convincing reason at all for not filing the chargesheet if the investigation is completed. When there is opinion given by the doctor, who conducted the P.M. examination on the cause of death, the C.A. Report will not make any difference even if it is received subsequently.

7. The submissions made show that the husband and his relatives were behind bars for around 15 days. The submissions made show that police custody remand of 10 days was granted against them. In view of these circumstances, the learned Sessions Judge has granted relief. Cancellation of the relief is a serious matter and it can be done in exceptional circumstances. In view of the aforesaid material, this Court has no reason to interfere in the order made by the learned Additional Sessions Judge.

8. In the result, the application is rejected.

[T.V. NALAWADE, J.]

ssc/