

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

Criminal Revision Application No. 26 of 2003

Shobhabai w/o. Shankar Motirale,
Age ; 34 years,
Occupation : Household,
R/o. Khachne,
Taluka : Chopda,
District : Jalgaon.

.. Revision Applicant.

versus

1. Jaiwant s/o. Arun Patil,
Age : 45 years,
Occupation : Service / Money Lending,
R/o. Khachane, Taluka : Chopda,
at present residing at Amalner,
Deshmukh Nagar, Taluka : Amalner,
District : Jalgaon.
2. Arjun s/o. Ghanshyam Patil,
Age : 67 years,
Occupation : Agriculture / Money Lender,
R/o. Khachane, Taluka : Chopda,
District : Jalgaon.
3. The State of Maharashtra.

.. Respondents.

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Mr. A.R. Rathod, Advocate, for the revision applicant.

*Mr. A.S. Gandhi, Advocate, holding for
Mr. P.V. Mandlik, Senior Advocate, for respondent
nos.1 and 2.*

*Mr. S.D. Kaldate, Additional Public Prosecutor,
for respondent no.3.*

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CORAM : SMT. SADHANA S. JADHAV, J.**DATE : 10TH APRIL 2015****ORAL JUDGMENT :**

1. Heard Adv. Mr. A.R. Rathod for the revision applicant, Adv. Mr. A.S. Gandhi h/f. Sr.Adv. Mr. P.V. Mandlik for respondent nos.1 and 2, and learned APP Mr. S.D. Kaldate for respondent no.3 - State.

2. The present applicant happens to be the original complainant. By the present revision application, the original complainant has challenged the order of acquittal recorded by the learned Additional Sessions Judge, Amalner, dated 22nd November 2002, in Sessions Case No. 61 of 1997. By the said judgment and order, the learned Additional Sessions Judge has acquitted present respondent nos.1 and 2 (Original accused nos.1 and 2) of the offences punishable under Section 306, read with Section 34 of the Indian Penal Code, and Section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 [For short, hereinafter referred to as “Atrocities Act”].

3. It is the case of the prosecution, that on 5-10-1997, the husband of the present applicant had committed suicide by consuming poison. Initially, Accidental Death No. 43/1997 was registered. After receipt of the said information, investigation was set in motion in the Accidental Death enquiry. In the Inquest Panchanama, the Investigating Officer had found certain chits on the person of the deceased. It was

disclosed in the said suicide note, that the present respondent no.1 i.e. Jaiwant Patil had not re-executed the conveyance deed and, therefore, the deceased had committed suicide. The API, who happen to be Investigating Officer, on the basis of the said chit, had filed FIR at Police Station, Chopda (Rural), on the basis of which, Crime No. 43/1997 was registered against the accused for offence punishable under Section 306 of the IPC. The suicide note along with the specimen handwriting had been referred to the handwriting expert for verification and genuineness of the handwriting. The genuineness of the handwriting in the suicide note was admitted by the accused under Section 294 of the Code of Criminal Procedure, 1973. After completion of investigation, charge sheet was filed on 17-11-1997. The case was committed to the Court of Sessions and was registered as Sessions Case No. 61/1997.

4. The learned Additional Sessions Judge, Amalner, vide judgment and order dated 22nd November 2002, was pleased to acquit the accused of all the charges levelled against them. In the course of investigation, it had revealed that the deceased belonged to the Scheduled Caste and, therefore, the accused were also tried for offence punishable under Section 3(1)(x) of the Atrocities Act. The prosecution had examined ten witnesses to bring home the guilt of the accused. The learned Additional Sessions Judge had considered the substantive evidence of all the witnesses along with the defence raised by the accused. The accused had placed on record, certified copy of sale deed and had raised a plea that there was no question of re-conveyance of the sale deed.

5. The learned Sessions Court has rightly held that it cannot be

said that the respondents / accused had instigated or abetted the commission of suicide of the deceased. That, there was no ingredient under Section 107 of the IPC which was proved by the prosecution. Although there was record to show that the deceased had mortgaged his land with so many persons, it cannot be said that the respondents / accused could be held liable for commission of suicide. The respondents / accused had no knowledge, nor any intention, that by failure to re-convey the said land, the deceased would commit suicide. In any case, the accused had raised a specific plea that there was no question of re-conveying the said land. In fact, the learned Additional Sessions Judge has taken into consideration that, there was record to show that on the date of execution of conditional sale deed, possession of the land was handed over to the accused. Taking into consideration the evidence adduced by the prosecution, it cannot be said that there was any perversity in recording the findings by the Sessions Court and the Sessions Court has rightly acquitted the accused of all the charges levelled against them.

6. The learned Additional Sessions Judge has also taken into consideration the chit at Exhibit 42, wherein the deceased allegedly stated that he cannot express himself since he was annoyed with his wife. It is rightly considered that there could be so many reasons for commission of suicide. The chit at Exhibit 40 implicates the present respondents / accused. However, there is no cogent and convincing evidence on record to even remotely hold that the respondent nos.1 and 2 herein had either abetted, instigated or facilitated the commission of suicide by the husband of the present applicant. The learned Counsel for respondent nos.1 and 2 rightly submits that Section 401 Sub-Clause 3 of the Code of Criminal

Procedure, 1973, contemplates that the High Court shall not convert the judgment of acquittal into conviction. There is a specific embargo. In view of this, the revision application deserves to be dismissed. No interference is warranted in the findings recorded by the Sessions Court.

7. In the result, the Revision Application being sans merits, is dismissed. Rule is discharged.

(SMT. SADHANA S. JADHAV)
JUDGE

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