

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 371 OF 2003

The State of Maharashtra
 through Police Station Officer
 Police Station Talwada, Taluka
 Georai, District Beed

APPELLANT

VERSUS

1. Sainath s/o Gangadhar Kute
 (Died – appeal abated)
2. Navnath s/o Gangadhar Kute,
 Age : 30 years, Occu. Agri.,
 R/o Marfala, Tq. Georai,
 District Beed
3. Gangadhar s/o Manikrao Kute
 (Died – appeal abated)
4. Panchafulabai w/o Gangadhar Kute,
 Age : 50 years, Occu. Household work,
 R/o Marfala, Taluka Georai,
 District Beed

RESPONDENTS

Smt. R.K. Ladda, A.P.P. for the appellant/State
 Mr. M.P. Tripathi, Advocate for respondents No. 2 and 4
 The appeal as against respondents No. 1 and 3 is
 abated as per Court's order dated 12th September, 2014

[CORAM : M.T. JOSHI, J.]
DATE : 2nd September, 2015

ORAL JUDGEMENT :

1. Aggrieved by the acquittal of the present respondents from the offences punishable under section 498A, 306 and 504 read with section 34 of the Indian

Penal Code, by the learned IVth Adhoc Assistant Sessions Judge, Beed, vide judgement and order dated 1st February, 2003 passed in Sessions Case No. 96 of 2000, the present appeal is filed by the State.

2. Out of the present respondents, during the pendency of appeal, respondent No. 1 Sainath and respondent No. 3 Gangadhar have died. In the circumstances, the present appeal survives as regards respondent No. 2 Navnath, brother of deceased respondent No. 1 and respondent No. 4 Panchfulabai, mother-in-law of deceased Sunita and appeal stands abated as against deceased respondents No. 1 and 3.

2. The prosecution case, in nutshell, is as under :-

. That, deceased Sunita was married to the present respondent No. 1 (since deceased) about two years prior to her accidental death on 10th March, 2000. Thereafter, she started residing in the joint family of the respondents. It is alleged that during the cohabitation, initial period of about six months was of a happy married life. Thereafter, however, all the

respondents started making demand of Rs. 3000/- for the purpose of cultivation of the land and household expenditure. The amount was paid by the complainant i.e. father of the deceased. However, same was not repaid. Thereafter, the demand continued for household expenditure. The complainant was unable to provide for the same. Over the said demand, all the respondents used to abuse and starve the deceased – Sunita. Deceased Sunita used to complain about this illtreatment to her parental relatives and more particularly to the complainant as and when the occasion arose. Once, the brother of the deceased, namely, Dnyaneshwar reached deceased Sunita to her matrimonial home. At that time, the demand was made to him for bringing an amount of Rs. 25,000/- for the purpose of facilitating to get job of a conductor to deceased respondent No. 1 Sainath.

. In the situation, the complainant's mother had died. At that time, deceased Sunita had come to the parental home. Respondent No. 4 Panchfulabai had visited the house for the final rites. Even during that mourning period, she made demand of Rs. 25,000/- by urging that the same should be paid at the earliest.

. After two days, when deceased Sunita returned to her matrimonial home. Thereafter, she continued to make complaint of illtreatment to all her relatives who had occasion to visit her matrimonial home. In the situation, on 10th March, 2000, deceased Sunita died due to drowning in the well and therefore, the complaint came to be filed.

3. PW8 PSI Vishnu More conducted the investigation in the case. He has recorded inquest panchanama (Exh-28), spot panchanama and the post-mortem examination of the deadbody was caused. The statements of the relevant witnesses and more particularly the relatives of the deceased were recorded and thereafter, the chargesheet came to be filed in the court.

4. Before the learned Sessions Judge, in all eight witnesses were examined. The defence has admitted that the deceased has died due to drowning though it was explained during argument that it may be an accidental death as the deceased had taken the clothes for washing at the place of occurrence. The material witnesses, in the circumstances, were the complainant and his

relatives i.e. PW3 Dnyaneshwar, the brother, PW4 Rajabhau, the cousin brother of the deceased, PW5 Baburao Ghadge, the relative of the deceased (he, however, turned hostile), PW6 Sudamati, the mother of the deceased, PW7 Vikas, the husband of the sister of deceased Sunita.

. The learned Sessions Judge found that the depositions of all these witnesses are vague as no day, date and time of the incidents were given or any of the incident is deposed to by any of the witnesses. It was further found that there are material contradictions between the versions of these witnesses as regards the demand of an amount of Rs. 25,000/- by respondent No. 4 and in the circumstances, the learned Sessions Judge has acquitted all the respondents. Hence, this appeal by the State.

5. Smt. Ladda, learned A.P.P. for the appellant/State submitted that the evidence on record would clearly show that the deceased was subjected to cruelty for unlawful demand of Rs. 25,000/-. Earlier, the demand of Rs. 3000/- was made. Still, the illtreatment continued, which ultimately resulted into

suicidal death of the deceased. She further submitted that the learned Sessions Judge ought not to have considered the minor variance in the evidence of the witnesses examined before him.

6. On the other hand, Mr. M.P. Tripathi, learned counsel for the surviving respondents submitted that not only the prosecution allegations are vague but even the evidence on record would show that the witnesses have exaggerated their version in their statements. Most of the witnesses though admittedly were not direct witnesses to some of the incidents, have supported the prosecution by posing themselves as direct witnesses. In the circumstances, he submitted that the learned Sessions Judge has rightly considered the material on record. Therefore, in the present appeal against acquittal, no interference is warranted.

7. On the basis of above material on record and the submissions advanced on behalf of both sides, following points arise for my determination:-

(I) Whether the prosecution has proved that during the cohabitation of deceased Sunita with the present

respondents, they, in furtherance of their common intention, had subjected the deceased to cruelty over their unlawful demand of Rs. 3000/- earlier and later on of Rs. 25,000/- ?

(II) Whether the prosecution has further proved that the present respondents have abetted the commission of the suicide by deceased Sunita ?

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

R E A S O N S

8. None of the prosecution witnesses has deposed regarding the instances as to when those had taken place. They even failed to give the material, date, season or year of any such incidents. Though it is alleged that initially, an amount of Rs. 3000/- was paid, the tone and tenor of the prosecution evidence would show that it was a handloan facilitated by the complainant to the respondent No. 1's family as the loan was required to cultivate the land and the same,

therefore, cannot be called as an unlawful demand.

9. As regards demand of Rs. 25,000/-, according to the prosecution, the said demand was made as deceased respondent No. 1 Sainath was to get employment as conductor and for that purpose, certain expenses were required to be made. Regarding this demand, however, though again the time period of the same is not detailed by any of the witnesses, there is also vast contradiction between the statements of these relatives regarding the said demand.

10. PW7 Vikas, the husband of sister of the deceased, has deposed that respondent No. 4 Panchfulabai made demand of Rs. 25,000/- to him. The prosecution case, however, is that the demand was made to the complainant. Further, it is not the prosecution case that PW7 Vikas was present at that time.

. PW7 Vikas has deposed that he had provided an electric motor to the respondents but they were demanding an amount of Rs. 25,000/-, which is not the prosecution case. Further, there was vast variance in his statement before the court than his statement

recorded by the Investigating Officer. Therefore, the material contradictions were brought on record.

11. The learned Sessions Judge has minutely gone through the oral evidence of the witnesses and found the same to be contradictory regarding many aspects. The judgement delivered by the learned Sessions Judge cannot be called as perverse. In the circumstances, in the present appeal against acquittal, no interference is called for. Hence, the following order.

12. The appeal is hereby dismissed. The bail bonds of the respondents No. 2 and 4, if any shall stand cancelled. The disposal of the property involved in the offence be carried on the line of the directions issued by the learned Sessions Judge, vide the impugned order.

[M.T. JOSHI]
JUDGE

npj/criapl371-2003