

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.469 OF 2003

The State of Maharashtra,
(through the PSI Pachora
Police Station, Dist.Jalgaon) ..Appellant

Versus

- 1] Vijaysing Vithal Patil,
Age 27 years,
- 2] Vithal Nathu Patil,
Age 68 years,
(Appeal abated against
appellant no.2 vide
court's order dtd.9/7/15)
- 3] Thagubai Vithal Patil,

Occupation of appellant
nos.1 to 3 is agri.,
and r/o. Vadgaon Khurd,
Tq. Pachora
- 4] Thansing Vithal Patil,
Age 41 years, occ.Service,
r/o. Ganeshpur, Tq. Sakri,
Dist. Dhule ..Respondents

--

Mrs.Rekha Ladda, APP for appellant – State

Mr.B.K.Patil, advocate for respondents

—

CORAM : M.T. JOSHI, J.

DATE : OCTOBER 12, 2015

ORAL JUDGMENT :

Heard both sides.

2] Aggrieved by acquittal of present respondents/accused from the offences punishable under Section 498-A and 306 read with 34 of Indian Penal Code vide impugned judgment and order dated 1st March, 2003 passed by learned Ist Ad-hoc Addl. Sessions Judge, Jalgaon in Sessions Case No.62 of 1999, the State has preferred present appeal.

. During pendency of present appeal, respondent no.2, father-in-law of the deceased, has died and therefore, the appeal is abated as regards him.

3] The prosecution case, in short, is as under :-

. Deceased Meenabai, daughter of PW 1 – Pralhad Patil, resident of village Kajgaon, Tq.Bhadgaon,

Dist.Jalgaon, had married to respondent no.1 on 21st May, 1995. While residing in the joint family of the respondents, she died on 31st January, 1998 due to poisoning. Therefore, her father PW 1 - Pralhad filed the complaint on 1st February, 1998. According to him, after a happy married life of initial four months after marriage, present respondents started illtreating and beating deceased Meenabai over a demand of Rs.50,000/- for securing a job for respondent no.1. As and when the deceased used to return to her parental home, she used to narrate about such incidents.

. In the circumstances, the deceased delivered a female child at the house of the complainant. After delivery, she resided with her parents for about one year and six months. Her female child namely, Babli died after nine months of her birth. Respondent no.1 and his father (deceased respondent no.2) used to visit house of the

complainant during that period and used to make demands for money. Prior to two months of death of deceased Meenabai, a common relative namely, Usha took deceased Meenabai for cohabitation at the respondents' house. However, thereafter, just within six weeks, the deceased returned to her parental home with the nephew of complainant. At that time, she again complained of illtreatment and beating to her at the hands of the respondents over the demand of money. As the complainant was unable to comply with the said demand of money, he immediately sent back deceased Meenabai to her matrimonial home with said nephew. At that time, the nephew even resided for three days at the house of the respondents and upon return, he told the complainant that all the respondents used to beat the deceased.

. In the circumstances, on 31st January, 1998, the complainant received a message regarding death

of deceased Meenabai due to poisoning and therefore, he filed the complaint with the police on the next day i.e. on 1st February, 1998.

. Thereafter, regular investigation was carried by the Investigating Officer. An accidental death report was already filed by the Police Patil of village. During inquiry of the accidental death case, spot panchnama and inquest pachnama were drawn by PSI Gangurde. He sent the dead body of deceased for post mortem examination. After filing of the FIR, crime was registered and thereafter, PSI Gangurde conducted further investigation. Muddemal property was sent to the Chemical Analyst. Statements of the relevant witnesses were recorded.

. More than one year thereafter i.e. on 22nd March, 1999, the complainant produced before the Investigating Officer a suicide note along with a

note book of the deceased, claiming that said suicide note was in the handwriting of the deceased. Both these documents were sent to the examiner of handwriting and charge sheet came to be filed.

4] The defence of the respondents was that respondent no.3 – Thagubai, in fact, was sister of the complainant. The complainant and his wife did not like the proposal of marriage between respondent no.1 and deceased Meenabai, however, due to insistence of elder brother of the complainant, they had married deceased Meenabai with respondent no.1. The deceased was educated upto 12th standard. She did not like agricultural work. In the circumstances, on the day of the incident, while spraying insecticides on the crops, the deceased was infected with the insecticides accidentally. However, as the complainant and his wife had a grudge against the

respondents, only out of suspicion, a false complaint is filed.

5] In all, seventeen witnesses were examined before learned Addl. Sessions Judge. PW 1 – Pralhad is father of the deceased. PW 2 – Leelabai is wife of the complainant and mother of the deceased. PW 6 – Kalyansing is maternal uncle of deceased. PW 10 – Upendrasing is brother-in-law of deceased, to prove the fact of complaints of illtreatment made by the deceased. PW 15 – Dr. Ramkrushna Teli was the Medical Officer, who conducted post mortem examination on the dead body of the deceased. The documents collected by the Investigating Officer were sent to the examiner of handwriting. Therefore, PW 16 – Parshuram Dhotre, Handwriting Expert was examined.

6] Learned Addl. Sessions Judge took into consideration the admissions of the parents of

deceased, that they did not like the proposal of marriage between respondent no.1 and deceased. However, due to insistence of brother of the complainant, marriage was performed. Further, finding of the suicide note by the complainant after one year, without any explanation as to how, he came in possession of the same, was disbelieved by learned Addl. Sessions Judge. The case of the complainant that he had produced the natural handwriting of the deceased i.e. a note book of the deceased, was also belied as the Investigating Officer did not make any independent investigation in that regard. Therefore, the deposition of the handwriting expert had become insignificant. Further, contradictions between the suicide note and the oral evidence of the witnesses, was taken into consideration and the respondents came to be acquitted. Hence, the present appeal.

7] Learned A.P.P. for the appellant – State took me through the evidence on record. She submitted that the relatives of the deceased had made consistent statement that over a demand of Rs.50,000/-, the deceased was illtreated by the respondents, as detailed in the evidence. She further submitted that the suicide note was proved to be in the handwriting of the deceased at Exhibit 38-A. In the circumstances, she submitted that the learned Addl. Sessions Judge ought to have convicted the respondents.

8] On the other hand, learned counsel for the respondents submitted that there is inconsistency in the evidence. Animus of the parents of the deceased is manifest from the prosecution evidence itself. Further, recitals in the suicide note are contradictory to the oral statements of the relatives of the deceased. He, therefore, submitted that in the present appeal against

acquittal, no interference is warranted in the reasoning of learned Addl. Sessions Judge.

9] On the basis of this material, following points arise for my determination :-

I] Whether the prosecution has proved that from the date of marriage till the death of deceased Meenabai on 31st January, 1998, she was subjected to cruelty by the present respondents in furtherance of their common intention ?

II] Whether the deceased committed suicide on 31st January, 1998 at village Vadgaon Khurd ?

III] Whether the prosecution has proved that present respondents have abetted commission of suicide by deceased Meenabai?

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

R E A S O N S

10] The fact that the deceased had died due to poisoning has been sufficiently established. The case of suicide, however, will have to be considered in the light of the evidence on record placed by the prosecution regarding illtreatment.

11] All the four relatives of the deceased, as detailed supra, have deposed that after about four to five months of marriage, present respondents started illtreating the deceased over a demand of Rs.50,000/-. They used to beat the deceased. As the complainant had no money, about five days prior to the day of the incident, the deceased was sent

back to her matrimonial home, where she died under the circumstances stated above.

12] During the cross-examination of the relatives of deceased, it has become an admitted fact that PW 1 – complainant and PW 2 – wife of the complainant were against the proposal of marriage between the deceased and respondent no.1. They also admitted that they had not taken into consideration any choice of the deceased at the time of marriage as, according to them, there was no such custom in their community. The deceased was studied upto 12th standard and she was required to go for agricultural work while residing with the respondents.

. In this background, if we consider the suicide note at Exhibit 38-A, it would immediately strike that the said suicide note was placed by the complainant on 22nd March, 1999. However, the

complainant has not given any explanation as to how, he came in possession thereof.

. Had the suicide note been left by the deceased herself, then it should have been, naturally, in the house of the respondents only and not elsewhere. The complainant has also not stated that by post, he had received the same. Besides, the complainant has placed one note book before the Investigating Officer, to show the natural handwriting of the deceased. Those documents were sent to the examiner of handwriting by the Investigating Officer. The Investigating Officer without taking any efforts for independently collecting the natural handwriting of the deceased so that, he could confirm that the suicide note was in the handwriting of the deceased, all the exercise of sending those two documents by him to the handwriting expert was an exercise in futility.

13] Be that as it may, the contents of the suicide note at Exhibit 38-A belie the total prosecution case. Even, the suicide note would show that respondent no.1 used to support the deceased in the matrimonial dispute and present respondent nos.2 and 3 i.e. parents of respondent no.1, used to illtreat her. This is against the prosecution case that all the respondents i.e. husband, father-in-law, mother-in-law and brother-law of the deceased used to illtreat the deceased over a demand of Rs.50,000/-. In that view of the matter, learned Addl. Sessions Judge has appreciated the evidence on record carefully and has come to the conclusion that the prosecution has failed to prove its case beyond reasonable doubt.

14] In my view, since a reasonable and probable view of the evidence on record is taken by learned Addl. Sessions Judge, there is no need to interfere

with the same in the present appeal against the order of acquittal.

15] In the result, the appeal is hereby dismissed. Bail bonds of the respondents shall stand cancelled.

[M.T. JOSHI, J.]

kbp