

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

Criminal Application No.4821 of 2014

The State of Maharashtra.

.. Applicant.

Versus

Swapnil Sanjay Dandnaik
And Another.

.. Respondents.

Smt. M.S. Patni, Additional Public Prosecutor, for
applicant.

Shri. S.V. Sudrik, Advocate, holding for Shri. S.S.
Jadhavar, Advocate for respondent Nos.1 and 2.

CORAM: T.V. NALAWADE, J.

DATE : 4th AUGUST 2015

ORDER:

1) The application is filed for grant of leave to file appeal against the judgment and order of Sessions Case No.168/2012 which was pending in the Court of the Additional Sessions Judge, Ahmednagar. The trial Court has acquitted the accused of the offences punishable under sections 498A, 306 and 34 of the Indian Penal Code. Accused No.2 is the father of the accused No.1. Heard

learned Additional Public Prosecutor. Some hearing was given to the learned counsel for the respondent, accused.

2) The deceased was sister of the first informant. She was given in marriage to accused No.1 in the year 2004. She has left behind one son and one daughter. It is the case of the prosecution that after few years of the marriage the accused had started making demand of Rs. one lakh for medical shop business and they started making demand of Rs.1 lakh for the business of Vodafone Agency. It is the case of the prosecution that these demands were not met with and so there was ill-treatment to the deceased on that ground. It is the case of the prosecution that amount of Rs.60,000/- was already given but the accused were not satisfied and there was ill-treatment. It is the case of the prosecution that about 4 to 5 months prior to the date of the incident, the deceased had disclosed that accused No.1 had illicit relation with a girl who was employed by him in the agency business. The deceased committed suicide by hanging herself in the matrimonial house in the month of March 2012 (7th March 2012).

3) The prosecution examined mother and cousin brother of the deceased in addition to first informant to prove its case. As the death took place after 7 years of the marriage it was necessary for the prosecution to prove that there was abetment from the side of the accused as required under section 107 of the Indian Penal Code.

4) Accused were already in the business of medical shop and Vodafone agency. The evidence on record shows that the deceased was educated lady and she was running beauty parlour. Accused No.1 is also educated. He is B. Pharma. There is circumstance that both deliveries of the deceased took place in the matrimonial house and the accused borne the expenses of the deliveries. The evidence shows that the second child of the the deceased was suffering from disorder, cleft palate. She was treated in Pune and operation was performed but that operation was not successful. She was taken to Trichur (Kerala) where operation was performed and they returned to Shrigonda on 4-3-2012. The other record shows that the expenses for the medical treatment of the girl was borne by the accused persons.

In view of these circumstances it does not look probable that there was demand of Rs.2 lakh for their business. There is no convincing evidence to show that amount of Rs.60,000/- was paid by the first informant to the accused at any time for particular purpose.

5) To the version of the three witnesses there is no corroboration of independent circumstances. On the contrary there are aforesaid circumstances in favour of the accused. They informed the incident to the first informant immediately and they did not conceal anything. From the aforesaid circumstances it is difficult to infer that the accused had abetted the suicide of the deceased. Suicidal death is admitted and there is medical evidence in that regard. There is no convincing evidence to prove the offence under section 498A and also for offence under section 306 IPC. Nothing can be achieved if leave is granted to the State to file appeal. In the result, the application stands rejected. Leave is refused.

Sd/-
(T.V. NALAWADE, J.)

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