

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4925 OF 2013

The State of Maharashtra,
 through Police Station Officer,
 Police Station Ambajogai [Rural],
 Tq. Ambajogai, Dist. Beed

.. Applicant
 (Orig. Complainant)

Vs.

- 1] Shaikh Hamid Shaikh Dalil,
 Age : 30 years, R/o Multani Tanda,
 Sakud, Tq. Ambajogai, Dist. Beed
- 2] Shaikh Salimabee Shaikh Dalil,
 Age : 60 years, R/o as above
- 3] Bibi Chand Pathan,
 Age : 25 years, R/o As above
- 4] Shaikh Dalil Shaikh Aamin,
 Age : 61 years, R/o As above
- 5] Chand Ibrahim Pathan,
 Age : 30 years, R/o as above

.. Respondents
 (Orig. Accused)

Mr. V.P. Kadam, A.P.P. for the applicant/State
 Mr. M.D. Gitte, Advocate for respondent nos. 1 to 5

CORAM : M.T. JOSHI, J.
DATE : 27/03/2015

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by recording of the acquittal in
 favour of the present respondents from the offences

punishable under section 498-A, 323 r/w. 34 and section 306 of the Indian Penal Code, by the learned Additional Sessions Judge, Ambajogai, Dist. Beed in Sessions Case No.89 of 2012 vide judgment and order dated 20th June, 2013, the present application for leave to file appeal is preferred by the State.

3. Respondent no.1-Shaikh Hamid is the husband of the deceased, respondent no.2-Shaikh Salimabee and respondent no.4-Shaikh Dalil are the parents of respondent no.1. Respondent no.3-Bibi is the sister of the respondent no.1. Respondent no.5-Chand Ibrahim is the husband of said Bibi. The allegations are that the deceased has married to the respondent no.1 about three years prior to her death. For a period of 1-1/2 years, all the respondents treated the deceased well. Thereafter, on various trivial domestic issues, unnecessarily, the deceased was ill-treated. She used to narrate this ill-treatment to her parents. After 1-1/2 years of the marriage, the deceased was carrying and, therefore, she was taken to her parents house. The deceased was suffering from illness like jaundice, weakness and pneumonia etc. In the circumstances, the

baby born has immediately died after the birth. The deceased was of weak health. It is alleged that despite this, all the respondents used to extract hard work from her in the house and, therefore, the deceased has committed suicide by consuming poison.

4. On the basis of this complaint, the offence came to be registered.

5. Before the learned Additional Sessions Judge, in all 8 witnesses were examined. The medical evidence shows that the deceased has died due to consuming "UPL Phoskill Mono Crotophos 26% S.L. Insecticide".

6. The record reveal that in the FIR while only initially, the allegations were that the respondent nos.1 to 3 had ill-treated the deceased, later-on by way of supplementary statement, respondent nos.4 and 5 came to be added. P.W.3-Shaikh Jilani, the uncle of the deceased complainant claimed that the deceased had made a oral dying declaration against respondents to him while in the hospital while the other evidence would show that the deceased was unconscious from her admission in the hospital till her death. Further, it

has become an admitted fact during the trial that mother of the deceased hails from the same village and, therefore, there are common relatives from her side in the said village. None of them were examined and the Investigating Officer has recorded statements of other witnesses to the effect that there was no cruelty to the deceased from any of the respondent. In that view of the matter, the learned Additional Sessions Judge, though agreed that the evidence of the interested witnesses cannot be discarded merely because they are interested but upon scrutinizing all the evidence, as detailed supra, granted benefit of doubt in the case and acquitted the respondents.

7. The learned A.P.P. submits that it should have been taken into consideration by the learned Additional Sessions Judge, that the unnatural death has occurred within three years of the marriage. The relatives have deposed that there used to be ill-treatment to the deceased during her co-habitation with the present respondents.

8. Learned counsel for the respondents supports the reasoning of the learned Additional Sessions Judge.

9. Upon taking into consideration all the facts on record, as detailed supra, in my view, the learned Additional Sessions Judge has taken a reasonable and probable view of the material before him. In the circumstances, grant of leave to appeal against the impugned judgment and order of acquittal, would be an exercise in futility.

10. In the result, leave to file appeal is hereby refused. Application stands disposed of accordingly.

[M.T. JOSHI]
JUDGE

arp/