

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

CRIMINAL WRIT PETITION NO. 1330 OF 2014

Vrandawani w/o Sambhaji Dalvi

Age : 38 Yrs., Occ. Household,

R/o : Dindrud, Tal. Majalgaon,

Dist. : Beed.

.... PETITIONER

V E R S U S

1. Deepak s/o Subhash Andil

Age : 28 Yrs., Occ. Agriculture.

2. Subhash s/o Narayan Andil

Age : 43 Yrs., Occ. Agriculture.

3. Nandubai w/o Subhash Andil

Age : 42 Yrs., Occ. Household.

4. Archana w/o Vilas Dhage

Age : 23 Yrs., Occ. Household.

5. Dagadu s/o Kisan Kale

Age : 53 Yrs., Occ. Agriculture.

All R/o : Dhagewadi, Tal. Dharur,

Dist. Beed.

6. The State of Maharashtra

.... RESPONDENTS

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Mr. S.J.Salunke, Advocate for Petitioner.

Mr. S.R.Kedar, Advocate for R.Nos. 1 to 5.

Mrs.S.G.Chincholkar, A.P.P. for R.No. 6 – State.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 30th JULY, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel for the parties.

2. Heard Mr. S.J.Salunke, learned Counsel for the petitioner, Mr. S.R.Kedar, learned counsel for respondent Nos. 1 to 5 and Mrs.S.G.Chincholkar, learned A.P.P. for Respondent No. 6 – State..

3. Present Petitioner filed private complaint bearing R.C.C. No. 123/2008 in respect of the offences punishable u/s 498-A, 304-B, 506 read with 34 of the Indian Penal Code in the Court of the Judicial Magistrate First Class, Dharur. Learned Magistrate has given full opportunity to the complainant to examine her witnesses. Accordingly, petitioner examined herself and her witnesses. Thereafter, learned Magistrate on 02/12/2010 passed Order whereby he found that no case is made out against the respondents and,

therefore, dismissed the entire complaint.

4. Feeling aggrieved by the same, Revision was filed bearing Criminal Revision No. 27/2012 before the learned Additional Sessions Judge, Majalgaon. Learned Additional Sessions Judge on 07/10/2014, on the basis of the verification statement and the depositions of the complainant's witnesses, partly allowed the said Revision and issued process for the offences punishable u/s 498-A, 506 read with 34 of the Indian Penal Code. However, he dismissed the Revision to the extent of the offence punishable u/s 304-B of the Indian Penal Code. Mr. S.R.Kedar, learned counsel submitted that against the said order, respondents/accused have not filed any further proceedings. Thus, the order passed on 07/10/2014 in respect of issuance of process has attended finality.

5. In so far as the offence u/s 304-B of the Indian Penal Code is concerned, it is obligatory on the part of the complainant to show that the death of Jaishree was unnatural. Said is '*sine qua non*' for attracting the provisions u/s 304-B of the Indian Penal Code. Neither in the complaint

nor in the verification statement, it is stated that the death was un-natural. Further, the observations of the learned Magistrate are affirmed by the revisional Court that in spite of the ample opportunity to examine the Doctor to ascertain the cause of death, same recourse was not taken by the complainant.

In that view of the matter, merely because there is death, offence u/s 304-B of the Indian Penal Code can not be attracted. For that it was obligatory on the part of the petitioner to show that the death is un-natural.

6. Since the present Criminal Writ Petition sans merit, it is dismissed.

7. Rule is discharged.

[V.M.DESHPANDE, J.]