

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6913 OF 2014 IN
CRIMINAL APPEAL NO. 780 OF 2014

- 1] Baban Baburao Bhosale
Age – 45 years, Occu-Labour
- 2] Prabhakar Baburao Bhosale
Age – 48 years, Occu-Labour
- 3] Nitin Baban Bhosale
Age – 25 years, Occu-Labour
- 4] Sachin Baban Bhosale
Age – 23 years, Occu-Labour
- 5] Govind Prabhakar Bhosale
Age – 19 years, Occu-Labour
- 6] Rekha Sharad Tribhuvan
Age – 26 years, Occu-Labour

All appellants R/o – Dawangaon,
Tq. Rahuri, Dist. Ahmednagar

.. Applicants

VERSUS

The State of Maharashtra
Through Shrirampur City Police Station

.. Respondent

Mr. K.B. Autade, Advocate for the applicants
Mr. S.R. Palnitkar, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 24/03/2015

ORAL ORDER :

1. Heard both sides.
2. Learned counsel for the appellants files on

record the true copy of the notes of evidence coupled with the copies of the necessary documents, which are marked as 'X' for the purpose of identification.

3. All the present appellants/applicants are convicted by the learned Additional Sessions Judge, Shrirampur for the offences punishable under section 306 r/w. 34 of the Indian Penal Code and were directed to suffer R.I. for a period of 10 years and to pay fine of Rs.5,000/- each on 26/11/2014. Since then, they are behind the bar. Learned counsel for the applicants further submitted that during the investigation, they were in custody for a period of about 2-3 weeks. Hence, he submits that the appellants-applicants be released on bail.

4. The prosecution case would reveal that the deceased was married to one Rekha and the couple was blessed with two children. On 6/3/2014, according to the complainant i.e. mother of the deceased, there was a minor scuffle between the spouses, out of which all the maternal relatives of the wife i.e. the present appellants-applicants came to the house of the deceased. There they bet him severely. The deceased was therefore

admitted by his mother to the hospital on the same day i.e. on 6/3/2014. However, on 10/3/2014, without taking any discharge, he absconded from the hospital and later-on his dead body was found in pieces on the railway track and, therefore, the allegations are that due to the beating, he has committed suicide. Therefore, the offence came to be registered.

5. In the trial, the learned Additional Sessions Judge held that the offence is proved and, therefore, the conviction and sentence, as detailed supra came to be passed.

6. Learned counsel for the appellants/applicants submits that the injury certificate regarding the deceased when he was admitted in the hospital, would show that he has received a single contused lacerated wound over his left parietal region, which, according to the Medical Officer was simple one. Copy of the said medical certificate is received alongwith the chargesheet by the present appellants. Thereafter, after 3 days, he committed suicide. Further, the mother of the deceased i.e. P.W.1 - Shantabai has admitted that the deceased was under the psychiatric treatment during

the period of the incident and, therefore, even the offence punishable under section 306 of the Indian Penal Code may not be made out.

7. Learned A.P.P. however opposes the application. He submits that since the sentence of 10 years is awarded and taking into consideration that over a minor issue, the deceased was beaten, which ultimately led to his suicide, the appellants-applicants be not released on bail.

8. Taking into consideration the overall facts of the case that the incident of beating the deceased had arisen out of the minor reason, the injury certificate, as detailed supra regarding the deceased and the overall facts, without making any comment on merit of the case, in my view, the appellants-applicants can very well be released on bail. Hence, the following order :-

9. The Application is allowed.

10. The substantive sentences as awarded by the learned Additional Sessions Judge, Shrirampur against the present applicants/appellants in Sessions Case No. 47 of 2014, vide judgment and order dated 26/11/2014,

are hereby suspended. The appellants-applicants be released on bail upon their executing P.R. bond in the sum of Rs.20,000/- (Rs. Twenty Thousand) each and also upon furnishing surety each in the like amount.

11. Learned counsel for the appellants-applicants makes a statement that the fine amount is already deposited.

12. Hamdast granted.

13. Criminal Application no. 6913 of 2014 accordingly stands disposed of.

[M.T. JOSHI]
JUDGE

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