

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 90 OF 2002

The State of Maharashtra ... Appellant

V/s.

- 1) Sushil Ramdas Kavale,
Age -3 years, Occu.-Service.
- 2) Sou. Shalini Ramdas Kavale,
Age - 50 years, Occu.-Service.

Both residing at Denkar Colony,
Lonavala, Tal-Vadgaon-Maval,
District - Pune.

... Respondents
(Orig. Accused Nos.1 & 2)

.....
Dr. F.R. Shaikh, A.P.P. for the Appellant - State.
None for the Respondents.

.....

CORAM : S.B. SHUKRE, J.

DATED : OCTOBER 28, 2015.

ORAL JUDGMENT :

This is an Appeal preferred against the Judgment and order dated 25th October, 2001 delivered in Sessions Case No.156 of 2000, thereby acquitting the respondents of the offences punishable under sections 498-A and 306 read with Section 34 of the Indian Penal Code (hereinafter referred to as "IPC", for short)

2 The prosecution case as against the respondents is as follows:

Deceased Rajashree got married to respondent no.1 Sushil in the year 1992 and after her marriage, she started residing at the house of respondent no.1. Respondent no.2, the mother of respondent no.1 was also residing with respondent no.1 and deceased Rajashree in the same house. A daughter was born to Rajashree and Sushil out of the said wedlock. For a period of five years from the marriage, deceased Rajashree was treated well by both the respondents. However, as respondent no.1 developed some illicit relations with at least two women, whose names have been given by the witnesses as Renuka and Iyda, a matrimonial discord took place between deceased Rajashree and Shushil. It was alleged that because of the dispute between the two, respondent no.1 used to harass and treat cruelly deceased Rajashree in which acts of respondent no.1, respondent no.2 also used to contribute directly or indirectly. Ultimately, on 8th October, 1999, unable to bear with the cruelty, deceased Rajashree committed suicide by throwing herself in front of a running train on the railway tracks of Lonawala. She met with instantaneous death. Police and relatives of deceased

Rajashree were informed of her such death. Inquest panchanama and other formalities were carried out. Father of the deceased Rajashree, Laxman Jadhav, immediately filed a complaint against both the respondents at police station Lonawala. A case was investigated and after completion of the investigation, the charge-sheet was filed against both the respondents.

On merits of the case, the learned Ad-hoc Assistant Sessions Judge found that the charge for the offences punishable under Sections 498-A and 306 read with Section 34 of the IPC made against both the respondents was not proved beyond reasonable doubt. Therefore, the learned Ad-hoc Assistant Sessions Judge by his Judgment and order dated 25th October, 2001, acquitted the respondents of both the offences. Being aggrieved by the same, the State has preferred the present Appeal.

3 I have heard the learned A.P.P. for the State. Nobody appears on behalf of the respondents. I have carefully gone through the record of the case including the Judgment and order.

4 On careful perusal of the impugned judgment and

order it is seen that the learned Judge has found that the allegation of meting out cruelty on the ground of having illicit relations with two women by respondent no.1 was not proved beyond reasonable doubt and that there was even a possibility of deceased Rajashree meeting with an accidental death. Thus, the learned judge found that commission of suicide by deceased Rajashree was not proved nor the cruelty, as contemplated under Section 498-A of the IPC, was proved.

5 The conclusions, so drawn by the learned Magistrate, as seen from the evidence available on record, are completely based upon the evidence adduced by the prosecution and cannot be said to be borne out of any impossible view. The evidence of the important prosecution witnesses namely P.W. 1 Laxman Jadhav, the father of the deceased and P.W.4 Sunita, the mother of the deceased does not show that the women by name Renuka and Iyda could be conclusively found to be in any illicit relationship with respondent no.1. It appears that what was known to them as regards the nature of relationship between respondent no.1 and these two women and that too through their deceased daughter, was only their daughter's feeling or suspicion that the women might be in illicit relationship with her husband and nothing

more. According to them, they were told by the daughter that respondent no.1 had introduced these women to her as his mere friends. It appears that such introduction given to the deceased by her husband i.e. respondent no.1 was not accepted by her at its face value and that she suspected there was something more into their relationships. It is well settled law that suspicion being not equivalent to proof, cannot be the basis for awarding conviction. Suspicion can never take the place of truth. What is required by law is proof according to the established rules of evidence and not something which is in the nature of imagination of human mind like suspicion, doubt or fantasy. There is absolutely no evidence brought on record by the prosecution to turn this suspicion into proof according to law.

6 Then, there are also admissions in the evidence of the prosecution witnesses which have been discussed at length in the impugned judgment and order which show that the possibility of deceased Rajashree crossing the railway track at Lonawala at the relevant time in order to meet her doctor stated to be Dr.Parmar for receiving medical treatment from him, could not be ruled out. Unless and until the possibility of the death being accidental or homicidal being ruled out, no Court of law can reach a conclusion

that a death is suicidal. This is what the learned Judge has done in the present case and rightly so.

7 In the circumstances, I find that the view taken by the learned Judge is a possible view. As such there is no merit in the present Appeal and it deserves to be dismissed. The Appeal stands dismissed.

(S. B. SHUKRE, J.)