

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL APPEAL NO. 86 OF 1997

The State of Maharashtra

.....Appellant

V/s.

1. Sunil Balwant Pevekar  
Resident at Vashi Sector 7  
N-27, R.H. 4 (R. House) Vashi,  
New Bombay.

2. Savitribai Balwant Pevekar  
Resident at Vashi Sector 7  
N-27, R.H. 4 (R. House) Vashi,  
New Bombay.

....Respondents

Mr. S. S. Pednekar APP for the State.

Mr. Sanjeev Kadam i/b Prashant Badole for Respondents

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATED : FEBRUARY 12, 2015**

**JUDGMENT:**

1) The State of Maharashtra, being aggrieved by the Judgment and Order passed by Additional Sessions Judge, Thane dated 07/11/1996, thereby acquitting respondents of offences punishable under sections 498 (A) & 306 r/w 34 of Indian Penal Code in Sessions Case No. 11 of 1989 has filed present appeal. Respondent no. 2 has expired during the pendency of this appeal. Hence, appeal stands abated as against her.

2) Such of the facts necessary for the decision of this appeal are as follows.

3) That the brother of respondent no. 1 namely Sharad Balwant Pevekar was married to Smita @ Kalpana on 10/02/1988. On 03/08/1988, at about 6.00 pm, police from Vashi Police Station received an information that a woman had died in suspicious circumstances at Vashi, sector no. 7, and hence, police reached the spot. It was noticed that dead body of Smita was lying on the first floor. Members of her matrimonial family were present in the house. Somnath Sonavane, P.I. of Vashi Police Station had registered A.D. No. 20 of 1988. Preliminary investigation was conducted in A.D. inquiry.

4) At the time of conducting inquest panchanama, lady panch had seized one chit from the person of Smita. Chit was handed over to P.S.I. The said chit is at exhibit 47. Brother of deceased Smita was informed about the said chit. Upon reading the recitals of the said chit, brother of deceased Smita lodged a report against present respondent no. 1 and his mother. At the time of conducting autopsy, it was noticed that Smita had committed suicide by consuming insecticide Baygon. On the basis of the report filed by the brother of the deceased, crime no. 151 of 1988 was registered against accused persons

for offence punishable under section 498 (A), 306 r/w 34 of Indian Penal Code. The said chit was sent for forensic examination to hand writing expert. Upon receipt of the opinion of the hand writing expert, it was revealed that the said chit was rather written by deceased. Case was committed to the Court of Sessions and registered as Sessions Case No. 11 of 1989. Prosecution examined 13 witnesses to bring home the guilt of the accused.

5) P. W. 1 Dr. Dilip Vaze had conducted autopsy on the dead body of Smita. Upon perusal of post mortem notes, which is at exhibit 24, it is clear that Smita had consumed insecticide. Upon perusal of post mortem notes, it is clear that there were no external injuries on the person of Smita which would in any way indicate that prior to commission of suicide, she was physically assaulted by any of the accused persons. C. A. report is at exhibit 25 & 26. C. A. report indicates that she had consumed Baygon.

6) P. W. 2 Leelabai Parulekar is the panch for inquest panchanama. When she had taken search of body of Smita in her room, she had found one chit in the inner wear of Smita. She has identified the chit at article 'A'. In the cross-

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examination, it is elicited that she happens to be a distant relative of deceased. She had been to the spot, since she had learnt about the death of Smita. It is also elicited that at the time of search, i.e. inquest panchanama, her husband and other relatives as well as police were present.

7) P. W. 3 Gopal Parulekar is the panch for spot panchanama which is at exhibit 30. Scene of panchanama is admitted by the defence.

8) P. W. 4 Vijay Puskar happens to be neighbour of Pevekar family. He has deposed before the Court that on 03/08/1988, he was called by Sharad Pevekar informing him that his wife had locked the door from inside and was not opening the same. P. W. 4 climbed on the door through ventilator and entered the room and opened the door. It was noticed that Smita was lying unconscious. After examining her pulse, Sharad Pevekar had realized that his wife is no more.

9) P. W. 5 Somnath Sonavane is the police officer who had recorded information given to the police and had registered A. D. No. 20 of 1988.

10) P. W. 6 Smt. Vimal Savale is the star witness. She was working as made servant in the house of the accused persons. She has deposed before the Court that on 03/08/1988, she had been to the house of the accused and had learnt that Smita had committed suicide. She has further deposed that at about 8.00 am on that day, accused no. 2 i.e. mother-in-law of the deceased Smita had promised her to enhance her salary and had asked her to do all the household work. Accused no. 2 had also told her that Smita was not keeping well and that she is sleeping in her room. In fact, At that relevant time, Smita had expired.

11) There is no evidence to show that on the day of incident, during the course of the day, present respondent no. 1 was present in the house. At this stage, learned counsel appearing for respondent no. 1 submits that respondent no. 1 is working as Clerk in Bombay Port Trust. During the course of the day, he was not present in the house and therefore, it cannot be said that he had abetted the commission of suicide.

12) The entire case of prosecution rests upon chit which is at exhibit 47

and is proved in the hand writing of the deceased. The recitals of the said chit would show that Smita had written in the said chit that she was being harassed in her matrimonial house at the hands of accused persons. “She was not being allowed to cook food and was also not allowed to have food”. According to her, accused were insisting upon her to go to her maternal house, but since, she did not have parents, she was constrained to commit suicide. It is pertinent to note that in the said chit, Smita had specifically stated that father-in-law has taken care of her as his own daughter and that she has not informed to anybody including her kith and kin about the harassment and ill-treatment meted out to her at the hands of accused persons.

13) It appears that allegations alleged against accused persons, especially present respondent no. 1, by the deceased would not be covered by definition under section 498 (A) of Indian Penal Code. It is an omnibus allegation.

14) Learned counsel for the respondent rightly submits that by no stretch of imagination, it can be said that an act of not allowing a woman to cook food would amount to harassment and ill-treatment as contemplated under section

498 (A) of Indian Penal Code. As against this, learned APP submits that nature of harassment and ill-treatment has not been specified, but at the same time, Court cannot be oblivious of the fact that Smita was constrained to commit suicide as she could not bear the harassment at the hands of accused persons. Learned counsel for the respondent submits that Smita must have been sensitive and it cannot be said that it was a deliberate act on the part of the accused which had abetted commission of suicide.

15) Prosecution examined sisters of deceased as P. W. 8, 9, 10, 11 & 12. The very fact that Smita had disclosed in the chit that she had not informed about harassment and ill-treatment to her relatives, is sufficient to hold that they had no first hand information about the condition of Smita, prior to her death. The very fact that she has specifically stated that she had not disclosed about the same to her relatives is sufficient to hold that relatives were not aware of any incident happening in the house of deceased Smita. The said chit will have to be relied upon in totality and cannot be relied upon partly. The act alleged against the present respondent no. 1 is he had not allowed Smita to cook. The accused no. 2 would be in charge of domestic chores. The

respondent no. 1 was not concerned as to who cooked the food.

16) In view of this, it cannot be said that prosecution has established the guilt of the accused under section 498 (A) of Indian Penal Code. Learned Sessions Judge has assigned justifiable reasons for recording acquittal in favour of the respondent and acquitting of offence punishable under sections 498 (A) & 306 r/w 34 of Indian Penal Code. No interference is warranted. Hence, following order.

### **ORDER**

- (i) Appeal, being sans merits, is dismissed.
- (ii) Respondent no. 2 has expired during the pendency of this appeal. Hence, appeal stands abated as against her.
- (iii) The Judgment and Order dated 07/11/1996 passed by III Additional Sessions Judge, Thane in Sessions Case No. 11 of 1989 is hereby upheld.
- (iv) Appeal stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**