

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 15 OF 2014

The State of Maharashtra	...	Applicant
vs.		
1) Bhausahab Shivram Bhavar	)	
2) Prabhakar Shivram Bhavar	)	
3) Sau. Rajubai Abaji Bhavar	)	
4) Suman Shivram Bhavar	)	
5) Kum. Manjyabai d/o Abaji Bhavar	)	Respondents

Mr. A.S.Shitole, APP, for the Applicant-State.
Mr. Sachin Gite, Advocate for the respondents

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 8th January, 2015.

P.C.

Heard. The State have filed the present application seeking leave to appeal challenging the judgment and order passed by the Addl. Sessions Judge, Niphad, District Nashik, in Sessions Case No.19 of 2009 thereby acquitting the respondents of the offences punishable under Sections 498A, 306 read with Section 34 of Indian Penal Code vide judgment and order dated 31.7.2013.

2. It is the case of the prosecution that deceased Shilpa got married to the respondent NO.1 on 10th May, 2006. On 25.11.2008, her dead body was found in a well situated nearby. On 26.11.2008, the father of deceased Shilpa

lodged a report at the police station alleging therein that Shilpa was harassed and ill-treated in her matrimonial house and therefore, she has committed suicide. On 29.11.2008, a supplementary statement of the complainant was recorded in which it was alleged for the first time that there was a demand of Rs.2 laks. Since the demand was not fulfilled, the victim was harassed and ill-treated in her matrimonial house and hence she was constrained to commit suicide. On the basis of the statement dated 26.11.2008, Crime No.124 of 2008 was registered at the police station against all the respondents for offences punishable under Sections 498A, 306 read with Section 34 of IPC. After completion of investigation, charge sheet was filed. The case was committed to the Court of Sessions and registered as Sessions Case No.19 of 2009. The prosecution examined 8 witnesses to bring home the guilty of the accused.

3. Pundlik Raghunath Chavan PW-1 happens to be the complainant father of deceased. He has deposed before th Court on 25.11.2008, he was summoned to the matrimonial house of Shilpa. He found that his son-in-law was in a disturbed state of mind. Upon enquiry, he was informed that Shilpa has brought disrepute to the family. PW-1 decided to enquire with his daughter and therefore asked her husband and other members to call upon Shilpa. There was no reply. In the meanwhile, the mother-in-law of Shilpa informed that Shilpa has

fallen in th well and tht her dad body is floating. It is apparent on the face of record that the complainant was present in the matrimonial house of Shilpa on the date of incident. Initially, A.D. Enquiry No.60 of 2008 was registered. The father of the deceased was very much present at the time of A.D. Enquiry. However, he had not suspected any foul play nor had levelled any allegations against the respondents holding them responsible for suicidal death of Shilpa. In was only on 26.11.2008 i.e. after the funeral, that the complainant had lodged the FIR.

4. The learned Sessions Judge has rightly observed that it could be an after-thought since th allegations were levelled in A.D Enquiry. Moreover, it is pertinent to note that in the first information report, there was no allegation of the demand of Rs.2 lakhs which was later on alleged by way of supplementary statement dated 29.11.2008. The medical evidence clearly indicates that the cause of death is death due to drowning. Upon perusal of the substantive evidence of witnesses, it prima facie appears that there has been suppression of facts since the father of the deceased had been summoned to the matrimonial house on that day and before he could enquire with his daughter, she had committed suicide.

5. The accused have raised a defence that it is a case of accidental death and that at the time of fetching water from the well, she had slipped and fallen

in th well. It is apparent on the face of record that the prosecution as well as the accused have made an attempt to suppress the material facts. It is incumbent upon the prosecution to prove the guilt of the accused beyond reasonable doubt. The prosecution has failed to establish his guilt of the accused. The reasons recorded by the learned Sessions Judge in acquitting the accused of the charges levelled against the respondents are justifiable and do not call for any interference.

6. Hence, the application seeking leave to appeal is hereby dismissed.

(SMT.SADHANA S.JADHAV, J.)