

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.37 OF 2014

The State of Maharashtra	..Applicant
<i>Versus</i>	
Aarif Badshaha Patel and others.	..Respondents

....
Mrs. Anamika Malhotra, APP for the Applicant-State.
Mr. Yashodhan Gavanekar, for Respondent No.1.
....

CORAM : A. R. JOSHI, J.

DATE : 15th JUNE, 2015

P.C.

1. Heard learned APP for the State. This is an application for leave to file appeal challenging the judgment and order of acquittal of the respondents for the offences punishable under Sections 306, 498A read with Section 34 of IPC.

2. According to the case of prosecution the victim woman, wife of the original accused No.1, was treated with cruelty to such an extent that within two years of marriage she committed suicide by hanging herself in the

matrimonial house. During the trial about six prosecution witnesses were examined, out of them PW Nos.2, 3 and 4 are the close relatives, the male members. Reportedly the independent neighbours staying near the vicinity near the house of the accused, were not examined. One PW-5 was examined who was the neighbouring shopkeeper of the prosecution witnesses.

3. Admittedly the mother and sister of the victim woman were not examined. The defence of the accused persons/respondents was that the victim woman was not conceiving and as such she remained in upset mood and then ended her life. This suggestion was put to PWs-2, 3 and 4 and they answered in cross-examination that they were not aware of any such mood, but, they clearly did not deny such suggestion. Even on this count, the learned trial Court expressed its view that the evidence of mother and sister of the victim woman, if recorded on this count, would have thrown light but they were not examined. This was treated as a mitigating circumstance to the case of

prosecution by the trial Court.

4. The trial Court also disbelieved the vague allegation of torture and cruelty meted out to the victim woman by the respondents, on three counts, firstly that witnesses could not give even the approximate date, time and year of the alleged harassment told to them by the victim woman, secondly that there were no complaints, even any NC, with local police station regarding harassment and demand of Rs.2 Lakhs and odd allegedly demanded by the respondent from the victim. So far as PW-5 is concerned, according to this witness though he apparently an independent witness, he had no personal knowledge as to the respondents demanding money from the victim woman or from PW-2 her brother.

5. As such, considering the effect of the prosecution evidence in totality, the trial Court came to the conclusion as to failure of the prosecution to establish the offences punishable under Sections 306 and 498A read with 34 of IPC..

6. There is nothing to entertain a different view on the evidence brought before the trial Court and there is nothing to come to a different conclusion other than that arrived at by the trial Court. In other words, it cannot be said that the order passed by the trial Court is of such a perverse nature as to be altered or changed by allowing the State to prefer an appeal. Hence, present application for leave to file appeal is dismissed and disposed of accordingly.

(A. R. JOSHI, J.)

Deshmane (PS)