

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 63 OF 2013

The State of Maharashtra. ... Applicant.
Versus
Harising Lalsing Rajput. ... Respondent.

Mr. A.S. Shitole, APP for applicant-State.

Mr. Sham N. Patole, advocate for respondent.

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

P.C.:

1 This is an application seeking leave to appeal filed by the State of Maharashtra being aggrieved by the Judgment and Order dated 30/11/2012 passed by the learned Additional Sessions Judge, Pune in Sessions Case No. 252 of 2011 thereby acquitting the respondent of the offence punishable under Section 420, 498A, 306, 323 of the Indian Penal Code.

2 It is the prosecution case that the respondent had got married to deceased Abhilasha on 3/8/2008. It was love marriage. On 10th March, 2010, wife of the present respondent had committed suicide by consuming insecticides. The father of the deceased Abhilasha lodged a report at the police station alleging therein that the respondent had ill-treated and harassed his daughter and hence, she was constrained to commit suicide. It is further alleged that the respondent had suspected the chastity of his wife. That he was already married on the date when he got married to his daughter Abhilash. That he has not divorced his first wife Sapna Thakur, as had been assured to Abhilasha. On the basis of his report, Crime No. 154 of 2010 was registered at Haveli Police Station against the respondent. After completion of investigation, charge-sheet was filed and the case was committed to the Court of Sessions and registered as Sessions Case No. 252 of 2011. The prosecution examined 6 witnesses to bring home the guilt of the accused.

3 P.W.1 is the complainant. He is father of the deceased Abhilasha. In the cross-examination, P.W. 1 has specifically admitted that the accused and the deceased never resided together at one address since the date of marriage. It is further admitted that on the date of incident or soon before the incident the couple was not residing together. P.W. 1 has further admitted that he has no substantive proof to substantiate that the accused was married to Sapna Thakur. The prosecution had not examined the first wife of the respondent. All that is placed on record to prove the first marriage is a photo copy of the ration card which shows that Sapna was the wife of the present respondent. The learned Sessions Judge has rightly held that there is no cogent evidence to prove that the respondent had married deceased Abhilasha during the subsistence of his first marriage. The deceased was residing at Karve Nagar alongwith her friend prior to and on the date of committing suicide. The learned Sessions Judge has specifically observed that P.W. 1 and 2 i.e. father and mother of the deceased respectively have brought on record that

the deceased was residing with them despite the fact that she was married to the present respondent.

4 P.W. 4 and 5 were colleagues of the deceased. They have deposed before the Court that she has disclosed to them that the present respondent had suspected her chastity. On the date of the incident, he had called the deceased Abhilasha to meet him at Kothrud. Both the witnesses have deposed that on that day, she met the respondent. There was verbal altercation between the couple. That in the heat of passion, he had even slapped her.

5 According to the learned APP, the very act of humiliation by the respondent on the road amounted to abetment to commit suicide. She was depressed and humiliated and hence, the act of the respondent had brought her to the stage of depression to such a level that she was left with no other alternative, but to commit suicide.

6 However, upon perusal of the substantive evidence, it cannot be said that the prosecution has proved the charge under Section 306 of the Indian Penal Code. It cannot be said by any stretch of imagination that the respondent had the remote knowledge or the intention to abet commission of suicide. The positive evidence that the respondent and deceased were not cohabiting despite marriage cannot be ignored. There is no evidence that the respondent had forced her to stay separately also cannot be ignored. Hence, the reasons recorded by the learned Sessions Judge for recording a verdict of acquittal in favour of the respondent do not call for any interference as the learned Sessions Judge has assigned sound and justifiable reasons to record an acquittal.

7 In view of this, the application seeking leave to appeal deserves to be rejected. Accordingly, leave to appeal is refused. The Criminal Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)