

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1048 OF 2014

Shivaji Ganpat Gadgil .. Petitioner

Versus

Rupali Abhay Bhosale & Anr. .. Respondents

Mr. Bharat M. Sarda, Advocate for the petitioner

Mr. Niranjan Mundargi, Advocate for the respondent No. 1.

Mr. V. B. Konde-Deshmukh, APP for the respondent

CORAM:-M.L. TAHALIYANI, J.

DATED : -20/01/2015

P.C.

This writ petition be converted into Revision Application and be registered accordingly.

2 Admit. Respondents waive service. By consent of the parties, taken up for final hearing.

3 This revision application impugns the order passed by the learned Asstt. Sessions Judge-2, Satara, below Exh. 17, in Sessions Case No. 78/2012. There were two accused in the said case. Respondent No. 1 (accused No. 2) Rupali Abhay

Bhosale was the accused No. 2. Her husband Abhay Bhosale is the accused No. 1. Both of them were accused of the offence punishable u/s 498A and 306 of IPC. The deceased Madhavi was married to Abhay Bhosale by consent of the respondent No. 1 Rupali, 1st wife of the accused No. 1. It is the case of the prosecution that the deceased Madhavi and Abhay Bhosale were staying together at Shirval, District Satara, after so-called marriage of Abhay Bhosale with Madhavi. There was an agreement between the accused No. 1 Abhay Bhosale and the respondent No. 1 Rupali Abhay Bhosale that Abhay Bhosale would marry Madhavi by consent of Rupali. It was decided that respondent No. 1 Rupali along with her child will be staying at Shukrawar Peth, Kolhapur. It is admitted position that the accused No. 1 Abhay Bhosale and his so-called 2nd wife deceased Madhavi were staying together at Shirval. It is further an admitted position that the respondent No. 1 Rupali Abhay Bhosale with her child was mainly staying at Kolhapur.

4 The deceased Madhavi committed suicide by hanging herself on 7/3/2012 at the house of Abhay Bhosale and Madhavi at Shirval. After investigation, charge-sheet was filed against Abhay Bhosale and respondent No. 1. As far as Abhay Bhosale is concerned, he is facing trial before the trial Court. Respondent No. 1 had made an application for discharge, which has been granted by the learned Asstt. Sessions Judge. The petitioner Shivaji Ganpat Gadgil, who is the father of the deceased has a grievance against the said order. It is submitted on behalf of the petitioner that the learned Asstt. Sessions Judge committed an error in holding that the respondent No. 1 had not instigated the deceased and further committed error that the respondent No. 1 had not shared the intention of accused No. 1 Abhay Bhosale for the offence punishable u/s 498A of IPC.

5 I have gone through the order of the learned Asstt. Sessions Judge. The learned Asstt. Sessions Judge has

recorded in his order that there is no material on record that respondent No. 1 had been visiting Shirval or had been causing interference in the affairs between the accused No. 1, Abhay Bhosale and the deceased Madhavi.

6 The learned counsel for the petitioner, however, invited my attention to the statement of the complainant/petitioner and three statements of friends of the deceased. It is alleged that the deceased had told her father/complainant and her friends about three to four months back that she was being subjected to cruelty by the accused No. 1 and respondent No. 2. This obviously is hear-say evidence and could not have helped the prosecution in any manner at the time of trial. This even cannot be considered as dying declaration of the deceased. With this material on record, the learned Asstt. Sessions Judge has rightly granted prayer of respondent No. 1.

7 I do not find any reason to interfere with the said order. The application is accordingly dismissed. Interim order, if any, stands vacated.

(JUDGE)

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