

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.120 OF 2014

The State of Maharashtra

..Applicant

Versus

Balnath @ Balasaheb Asaram

Deokar and others.

..Respondents

....

Mr. A.R. Patil, APP, for the Applicant-State.

Mr. B.G. Vaidya, Advocate for Respondent Nos.1 and 2.

....

CORAM : A. R. JOSHI, J.

DATE : 15th JUNE, 2015

P.C.

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

2. The case of the prosecution is that the victim woman, wife of the respondent/accused No.1, was being ill-treated by doubting her character, by her in-laws and her husband and other relatives. On that count mobile cell phone given to her was also taken away and she was not

allowed to contact her relatives including her parents and her sisters and brothers. The incident occurred out of the matrimonial house when the victim along with her husband and other relatives had been to some other place to attend the marriage in relation. There on the fateful day the victim woman was found having consumed some poison and as such she was taken to hospital but was declared dead. Intimation was given to the parents. They came and saw the condition of the victim and FIR was lodged by PW-1 mother of the victim.

3. What influenced the trial Court was the variance in the evidence of PWs-1 and 3 i.e. parents of the victim woman and contradictions and omissions in their substantive evidence. It appears that the trial Court has come to the conclusion that the defence raised by the accused as to the victim woman when censored for having some contact with male member of the family of the respondents, felt herself as defamed and consumed poison when she had been to other place to attend the marriage in

relation.

4. Considering the overall effect of prosecution witnesses, mainly that of PWs-1 and 3, the trial Court accepted the probable defence and came to the conclusion as to failure of the prosecution to establish the charges against all the respondents / original accused Nos.1 to 4.

5. Considering the substantive evidence led before the trial Court of about seven witnesses and mainly PWs-1 and 3 and considering the probable defence of the respondents, in the opinion of this Court, the view taken by the trial Court cannot be considered as not possible. In other words, it cannot be said that the order of the trial Court is of such a perverse nature so as to interfere with by allowing the State to reagitate the matter in appeal. In the result, present application for leave to file appeal is dismissed and accordingly disposed of.

(A. R. JOSHI, J.)