

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.139 OF 2014

The State of Maharashtra	..Applicant
<i>-Versus-</i>	
Shashikant Jagnnath Kadam	..Respondent

Mrs.P.P.Bhosale, APP for State
Mr.Sachin Thorat and Mr.Ujwal Angadsurve for respondent

CORAM : A.R.JOSHI, J.

DATE : 9th JUNE 2015

P.C.

1] Heard learned APP for State. This is an application for leave to file appeal challenging the judgement and order of acquittal of the respondent, in the matter of offences punishable under section 498-A, 306 of IPC. The impugned judgement and order was passed by the 3rd Additional Sessions Judge, Thane dated 12th February 2014.

2] The case of the prosecution is that the respondent accused and the victim woman got married in the year 2000 and initially for four to five years, they stayed at Chiplun and thereafter shifted to

Sanpada, Navi Mumbai and started residing in the block where brother of the respondent along with family members was residing. After about a year, the respondent accused purchased one room in the said building and started residing separately. Out of the marriage with the respondent, two children were born. The fateful incident occurred on 5th September 2006, when the victim woman initially killed her two children and then subsequently hanged herself and committed suicide. Turbhe police station was informed. The present respondent accused was arrested. Intimation was given to the relatives of the woman. They arrived at Navi Mumbai and a complaint was lodged with the police by the brother of father of the victim woman. Statement of witnesses including parents and sisters and brother of the victim were recorded. Post Mortem report was obtained and on completion of investigation charge sheet was filed. Thirteen witnesses were examined.

3] Main evidence is that of P.W.5 and P.W.11 both sisters of the victim woman. So also the important evidence was of parents of the victim woman i.e. P.W. 9 and 10. It is seen that the trial court has critically examined substantive evidence of these witnesses and

found out that there was no cognate material much less any circumstances to show that there was torture to the victim woman at the hands of the present respondent accused or that there was such a cruel treatment meted out so as to lead the victim woman to end her life and also end life of her two children. What weighed with the trial court was the factual position that the handwriting on the chit found in the money purse of the victim woman did not match with the admitted hand writing of the victim woman and as such no much importance was given by the trial court to the contents of the suicide note in which there were allegations against the respondent i.e. husband of the deceased. The trial court has also observed by referring to the evidence of P.W.9 - father of victim woman that the financial condition of respondent accused was good and that there was no ill treatment which would compel the victim woman to end her life and also that of her children.

4] Considering the material available before the trial court it was held by the trial court that the prosecution has failed to establish the charges levelled against the respondent accused. Considering the material and reasoning given by the trial court, it cannot be said that

the trial court had fallen in an error. 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 the same. As such, there is nothing to re-appreciate and re-appraise the evidence as the view taken by the trial court was possible view and there is no merit in this application. The same is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)