

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 747 OF 2014.
in
CRIMINAL APPEAL NO. 604 OF 2014.

Dadarao Shamrao Bhad ..vs..The State of Mah.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.Tushar Tathod, Adv. for the applicant/appellant.
Mr.S.M.Ukey, APP for the State.

CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.
DATED : JULY 13, 2015.

Death has taken place on 12th of September, 2011. On the basis of alleged threat given by appellant/accused on 8th of September, 2011, the father of deceased lodged complaint on 15th of September, 2011. The charge was under Sections 498-A and 302 of the Indian Penal Code.

The case of appellant is that the ingredients for the offence punishable under Section 498-A of the Indian Penal Code have not been brought on record. The appellant was not last seen alive in the company of deceased. It is further submitted that there is delay in lodging FIR and the appellant/accused was throughout on bail during the trial. He has got one son and two daughters from deceased.

Learned APP is strongly opposing the prayer. According to him, learned Trial Court has rightly appreciated the controversy. The death admittedly has taken place in residential house and the accused has not seriously disputed his presence in the said house on the day of incident. He has invited attention to consideration of this aspect by the learned Trial Court in paragraph nos.9 and 10 of impugned judgment.

After hearing respective counsel, we find that police got

knowledge of death through Police Patil who has examined as PW 6. P.W.6 Police Patil claims that he got knowledge through other persons. Those persons namely Nandu Fad and Nandu Hole have not been examined by the prosecution. These persons are not residents of house and how they got knowledge of death is not on record. Prima faice, we find that the story of ill treatment to attract Section 498-A of the Indian Penal Code is an omission.

The presence of accused in house is assumed by the trial Court. Learned APP has submitted that the appellant is a labour and hence at 8.00 p.m. he has to be in his house. However, we are not in position to appreciate this contention at least at this stage.

In this situation, application is partly allowed. The applicant/appellant is released on bail on same terms and conditions as imposed by trial Court during pendency of trial before it. However, appellant/applicant shall report to the trial Court on every first Monday in every month, regularly, during pendency of this appeal. Failure to do so shall result in automatic cancellation of bail.

JUDGE

JUDGE

Chute.