

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPEAL NO.6 OF 2015**

Shaikh Salim Noormiya,
Age-55 years, Occu:Agri.,
R/o-Brahmangaon, Tq-Paithan,
Dist-Aurangabad.

...APPELLANT
(Orig. Complainant)

VERSUS

- 1) The State of Maharashtra,
Through Police Station Officer,
Police Station (Mantha), Ambad,
Dist-Jalna,
- 2) Sk. Subhan Sk. Kader,
Age-40 years, Occu:Agri.,
R/o-Village Khedgaon,
Tq-Ambad, Dist-Jalna,
- 3) Sk. Kader Sk. Chunnu,
Age-75 years, Occu:Agri.,
R/o-As Above,
- 4) Sk. Azam Sk. Kader,
Age-41 years, Occu:Agri.,
R/o-As Above,
- 5) Shakilabai w/o Sk. Azam,
Age-35 years, Occu:Agri.,
R/o-As Above.

...RESPONDENTS
(Resp. Nos.2 to 5 - Orig. Accused)

...
Mr. V.V. Deshmukh Advocate for Appellant.
Mr. A.M. Phule, A.P.P. for Respondent No.1.
Mr. Prasad B. Kadam Advocate h/f. Mr. S.J.
Salunke Advocate for Respondent Nos.2 to 5.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 22ND APRIL, 2016

ORDER :

1. Heard counsel for the Appellant - original complainant. This Appeal is tendered against acquittal. Considered the evidence from the record of the trial Court and the Judgment and reasonings recorded by the trial Court.

2. The counsel for Appellant - original complainant is submitting that the incident occurred on 3rd August 2009 at about 9.30 a.m. in the field of the accused persons. The accused persons reside in the village. The incident occurred in the field. The accused persons were informed by somebody that the victim has fallen in the well. According to the counsel, the accused

persons did not help in taking out the body of the victim from well and had run away. It is stated that there is evidence of informant PW-1, who is father of the victim Naushadbee and the mother of the victim who deposed as PW-2. Son of complainant was also examined as PW-3 and his brother was examined as PW-4. It is stated that the marriage was, no doubt, more than 12 years old and couple also had four children. But according to the learned counsel, there was constant demand of money by accused No.1 from the informant and as the informant had not paid, the victim was being ill-treated. The accused used to speak badly with her. It is stated that there is evidence to show that accused No.1 had gone to the house of the complainant and demanded money. The counsel submitted that the victim was not allowed to meet her parents for two years before the incident and this also amounted to ill-treatment. The counsel pointed out the Inquest Panchnama to say that right eye of the victim was found swollen and

bluish.

3. The learned counsel for Appellant submitted that the Appeal against acquittal may be admitted.

4. The counsel for Respondent Nos.2 to 5 - original accused is opposing admission of the Appeal. According to him, there is no independent witness of alleged cruelty. No specific instances are pointed out. The reasonings recorded by the trial Court are correct. Accidental death is being stated to be as suicide.

5. I have gone through the evidence and the reasonings recorded by the trial Court. The trial Court has considered the fact that the marriage was 12 years old. The trial Court noted that the couple had four children. Discussing the evidence, the trial Court observed that PW-1 claimed that accused were demanding Rs.30,000/- to purchase

agricultural land and he paid Rs.10,000/- and later on paid Rs.5,000/-. Trial Court reasoned out that Pw-2, however, did not say anything about such demand. PW-2 is the wife of PW-1 and mother of victim. The trial Court observed that PW-3 of course corroborated PW-1 but had not stated that Rs.15,000/- have been paid.

. Trial Court further discussed evidence of PW-1 that after the birth of youngest son of Naushadbi, accused No.1 had come to the house of PW-1 demanding Rs.70,000/- to purchase tractor. Trial Court recorded that PW-2, however, deposed that all the accused were demanding money to purchase the tractor. The evidence is further discussed that PW-3 claimed that Rs.70,000/- were demanded three days before the death of victim, but PW-1 did not disclose the date or year of the demand. The trial Court discussed the evidence and concluded that it did not find substance in the allegations that the accused were demanding

Rs.30,000/- or Rs.70,000/- and were ill-treating. It did not find the case of prosecution probable that for demand of money cruelty was inflicted. The trial Court reasoned that accused No.1 has twenty acres of agricultural land. Apparently there was well in the field and it was irrigated land. The trial Court discussed the evidence to find that possibility of accident could not be ruled out. For such reasons, the trial Court concluded that offence was not made out and acquitted the accused persons.

6. Looking to the evidence and reasonings recorded by the trial Court, it is a possible view of the evidence. General allegations of ill-treatment without specific instances cannot be said to be helpful. Merely by saying that for ten years there were demands of money, is not enough. Swollen eye now referred, was not pointed out by State to raise any ground. It could be for different reasons. The Doctor was not examined.

Looking to the record and impugned Judgment, the view taken is possible view and there is no reason to admit this Appeal.

7. The admission of the Appeal is declined.
The Appeal is dismissed.

[A.I.S.CHEEMA, J.]

asb/APR16