

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.177 OF 2016
IN
CRIMINAL APPEAL NO.9 OF 2016

- 1] Nilkanth s/o. Nagorao Bhuse
Age 30 years, Occ. Agri.,
r/o. Village Lone (Budruk),
Tq. Ardhapur, Dist. Nanded
- 2] Nagorao s/o. Harji Bhuse,
Age 60 years, occ. and
r/o. as above.
- 3] Koushlyabai w/o. Nagorao Bhuse,
Age 52 years, Occ. Household
and agriculture, r/o. as above ..Applicants

Versus

- 1] The State of Maharashtra,
through the Police Station,
Ardhapr, Tq. Ardhapur,
Dist. Nanded
- 2] Baban s/o. Dhondiba Gadape,
Age 45 years, Occu. Agri.,
r/o. Village Amrabad,
Tq. Ardhapur, Dist. Nanded ..Respondents

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Mr.R.S.Deshmukh, advocate for applicants

Mr.R.V.Dasalkar, APP for respondent no.1 - State

Mr.A.D.Hande, advocate for respondent no.2

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CORAM : M.T. JOSHI, J.

DATE : FEBRUARY 09, 2016

PER COURT :

Heard both sides.

2] All the present applicants/appellants were convicted by the learned Addl. Sessions Judge-1, Nanded for the offences punishable under Section 304-B and 498-A read with 34 of Indian Penal Code. They were directed to suffer rigorous imprisonment for ten years for the offence punishable under Section 304-B read with 34 of Indian Penal Code; and rigorous imprisonment for one year for the offence punishable under Section 498-A read with 34 of Indian Penal Code. They were directed to pay jointly compensation of Rs.One Lakh to the complainant. Therefore, they are seeking their release on bail upon suspension of the substantive sentences.

. Original accused nos.4 and 5 were acquitted by the learned Addl. Sessions Judge.

3] The prosecution case would show that the marriage between the deceased and present applicant no.1 was performed on 20th May, 2013. In the marriage, a dowry of Rs.Seven Lakhs was agreed with some gold ornaments. Out of that, an amount of Rs. Six Lakhs was paid by the complainant to the applicants and the remaining amount was agreed to be paid after two months, however, the same was not paid and on the ground that the remaining dowry amount was not paid, deceased Puja was cruelly treated by the applicants/appellants and the acquitted accused. They also used to blame her that she was not carrying the household work properly.

. It is the further prosecution case that during cohabitation with applicant no.1, deceased Puja became pregnant. Therefore, her father - complainant wanted to take her to the parental house for rest but, present applicants did not

allow. In the circumstances, on 7th October, 2013, deceased Puja died due to hanging. Hence, the complaint came to be filed.

4] Besides the relatives of deceased - Puja, the prosecution examined PW 8 - Gangadhar Taley, who claimed to be an auto driver of village Amrabad i.e. the village of the complainant. According to this witness, he was present outside the house when the talks of the marriage were going on and therefore, he knew about the dowry. According to him, he knew that deceased - Puja was sought to be taken to her parental house by her father, as she was pregnant, which was, however, not allowed by the applicants.

5] The trial Court also examined Court Witness - Madhav Barse, who was earlier cited as a witness of the prosecution. He deposed that dowry or Rs.Six Lakhs was settled.

6] The learned Addl. Sessions Judge, though acquitted present applicants/appellants for the offence punishable under Section 306 of Indian Penal Code, has convicted them for the offence punishable under Section 304-B of Indian Penal Code taking into consideration the presumption that would be available as per the provisions of Section 113-B of the Indian Evidence Act.

7] Mr.Deshmukh, learned counsel for the applicants/appellants submits that during the pendency of trial, all the applicants were released on bail. There is no complaint of any misuse of liberty by them. He, therefore, submits that the applicants may be released on bail by suspending the substantive sentences.

8] On the other hand, learned APP for respondent no.1 - State and learned counsel for respondent

no.2 - complainant oppose the application. They submit that the reasons of learned Addl. Sessions Judge would show that it has been proved beyond the reasonable doubt, that present applicants/appellants have cruelly treated the deceased and ultimately she met with the unnatural death.

9] Upon hearing both sides, in my view, since the hearing of the appeal may take its own time, considering the fact that the applicants were released on bail during pendency of trial, their sentences deserve to be suspended and they may be released on bail, during pendency of appeal.

10] Hence, the following order :-

A] The substantive sentences of the present applicants, are hereby suspended, during pendency of the appeal.

B] The applicants/appellants be released on bail upon their executing P.R. bond in the sum of Rs.15,000/- (Rs.Fifteen Thousand) each and also upon furnishing surety each in the like amount and upon deposit of the fine and compensation amount, if not already deposited, during pendency of the appeal. Humdast allowed.

C] The application is allowed and disposed of accordingly.

[M.T. JOSHI, J.]

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