

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 475 OF 2016
IN
CRIMINAL REVN/23/2016**

NATHRAO S/O RAOSAHEB DARADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA.

...
Advocate for Applicants : Mr S S Thombre
APP for Respondents: Mr B A Shinde

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CORAM : V.K. JADHAV, J.
Dated: January 25, 2016

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PER COURT :-

1. The applicants are convicted by the Assistant Sessions Judge, Ambajogai, for the offence punishable under section 306 read with Section 34 of the Indian Penal Code in Sessions Case No.75/2008 and thereby sentenced them to suffer R.I. for five years and to pay fine of Rs.3,000/-(Rs. Three Thousand only), in default to suffer R.I. for one year. The learned Assistant Sessions Judge, Ambajogai also convicted the applicants/original accused for the offence punishable under section 498-A read with section 34 of Indian Penal Code and sentenced them to suffer R.I. for one year each and to pay fine of Rs.1,000/- (Rs. One Thousand) in default to suffer R.I. for three months, each. The learned Additional Sessions Judge, Ambajogai, by order dated 8.1.2016 in Criminal Appeal No.8/2009 confirmed the

judgment and order of conviction and thereby dismissed the appeal.

2. The applicants/accused preferred Criminal Revision Application before this Court and, the same is admitted by this Court.

3. Learned counsel for the applicants submits that, during the pendency of trial before the Assistant Sessions Judge, Ambajogai, and even during the pendency of Criminal Appeal before the Sessions Court, Ambajogai, all the applicants were on bail. Learned counsel further submits that, fine amount is already deposited before the Trial Court. Learned counsel submits that, the prosecution has failed to prove the cruelty. Therefore, presumption u/s 113-A of the Evidence Act cannot be made applicable to the facts and circumstances of the case. Consequently, prosecution has utterly failed to prove the abetment on the part of the applicants to deceased Dnyaneshwari for commission of suicide.

4. Learned APP submits that the prosecution has proved the guilt beyond reasonable doubt against the applicants/accused before the trial Court and the Trial

Court as well as Sessions Court rightly found the applicants/accused guilty and accordingly convicted them.

5. The applicants/accused were on bail during the pendency of the trial as well as during the Criminal Appeal before the Sessions Court. It appears from the Judgment and order of the Trial Court that there are doubtful circumstances about the unlawful demand made by the applicants/accused and on that count deceased was subjected to cruelty.

6. In view of this, I am inclined to grant bail to the applicants/accused. Hence, following order.

O R D E R

1. Criminal Application is hereby allowed.

2. The applicants 1)-Nathrao Raosaheb Darade, 2)Raosaheb Sambhaji Darade and 3) Venubai w/o Raosaheb Darade, be released on bail, on their furnishing P.B. of Rs.10,000/- (Rs. Ten Thousand) each, with one surety of the like amount by each of them, pending the hearing final disposal of Criminal Revision Application and the substantive part of the sentence passed by the learned Assistant Sessions Judge, Ambajogai in Sessions Case No.75/2008 and confirmed by the Additional Sessions Judge, Ambajogai in Criminal Appeal No.8/2009 is hereby suspended till the disposal of Criminal Revision Application.

3. Criminal Application stands disposed of accordingly.

(V.K. JADHAV, J.)

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aaa/-