

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

**CRIMINAL APPLICATION NO. 533 OF 2016
IN
CRIMINAL REVN APPLN NO. 48 OF 2016**

NANASAHEB NATHA RASHINKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr Vijay Autade h/f K B Autade
APP for Respondents: Mr N B Patil

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CORAM : V.K. JADHAV, J.
Dated: February 22, 2016

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PER COURT :-

1. The applicants/original accused are convicted for the offence punishable u/s 498-A, 306 read with section 34 of the Indian Penal Code and sentence to imprisonment by order dated 30.1.2014 by the Assistant Sessions Judge, Shrirampur in Sessions Case No.66 of 2013 and said order of conviction is modified in Criminal Appeal No.48 of 2014 by the District Judge-1 and Additional Sessions Judge, Newasa, and the applicants are convicted for the offence punishable u/s 498-A read with section 34 of the Indian Penal Code and sentenced to suffer R.I. for two years and to pay fine of Rs.10,000/- each, and, also convicted for the offence punishable u/s 306 read with 34 of Indian Penal Code and sentenced to suffer R.I. for five years and to pay fine of Rs.15,000/- each, in default to suffer R.I. for (08) eight

months. It is further directed that, out of fine amount, an amount of Rs.40,000/- be paid to the father of the deceased, Manisha as compensation and, substantive sentences are directed to run concurrently. Being aggrieved by the same, the applicants/original accused preferred Criminal Revision Application No. 48/2016, which is admitted by this Court today only.

2. Learned counsel for the applicants submits that, during the course of the Trial and even during the pendency of Criminal Appeal, both the applicants were on bail. Learned counsel further submits that, the applicants/accused had deposited the fine amount before the Trial Court. Learned counsel submits that, marriage between deceased Manisha and applicant/accused Nanasaheb Rashinkar solemnized on 28.1.2004 and the incident in question had taken place on 20.12.2012. So, in view of this, presumption u/s 113-A of the Indian Evidence Act cannot be made applicable to the facts and circumstances of the present case. Learned counsel further submits that, in the year 2006 the applicants/accused alleged to have been demanded one tola of gold ring, however, till the year 2012, there were no further demands. Learned counsel further submits that, there is no evidence of

cruelty as such, and, thus, in the absence of presumption u/s 113-A of the Act, there is no evidence of abetment of commission of suicide.

3. The learned APP submits that there is sufficient evidence against both the applicants and the courts below have rightly convicted the applicants/accused.

4. In the light of the above submissions and since the applicants/accused were on bail during the course of trial and even during the pendency of appeal, I am inclined to release them on bail. Hence, following order is passed.

ORDER

I. Criminal Application is hereby allowed.

II. The substantive part of the sentence as modified by the District Judge-1 and Additional Sessions Judge, Newasa in Criminal Appeal No.48 of 2014 arises out of the conviction and order of sentence passed by the Assistant Sessions Judge, Shrirampur, District Ahmednagar, by order dated 31.1.2014 in Sessions Case No.66 of 2013 is hereby suspended till the disposal of the Criminal Revision application No.48 of 2016.

III. The applicant No.1) Nanasaheb Natha Rashinkar and No.2) Ashabai @ Asrabai Natha Rashinkar be released on bail on their furnishing P.B. of Rs.15,000/- (Rs. Fifteen Thousand) by each of them with one solvent surety of the like amount, by each of them.

IV. Bail before the trial court.

V. Criminal Application stands disposed of accordingly.

(V.K. JADHAV, J.)

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aaa/-