

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1040 OF 2015
(The State of Maharashtra Vs. Maruti Suryabhan Walunj)

Mr. R.B. Bagul, A.P.P. for the applicant/State
Mr. R.K. Temkar, Advocate for the respondent

CORAM : M.T. JOSHI, J.
DATE : 11/02/2016

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the acquittal of the respondent from the offences punishable under section 498A and 306 of the Indian Penal Code, by the learned Additional Sessions Judge, Ahmednagar, vide judgement and order dated 20th September, 2014, passed in Sessions Case No. 84/2013, the State wants to file an appeal and therefore, the present application for grant of leave to file appeal is filed.
3. The facts on record would show that the present respondent was married to deceased Savita alias Suvarna about three years prior to her death due to suffering of burn injuries. On 17th September, 2012, upon suffering

burn injuries, she was admitted in Civil Hospital, Ahmednagar where her dying declarations were recorded by the Special Executive Magistrate as well as by the Assistant Sub Inspector at Exhibit-19 and Exhibit-27. In the said dying declarations, the deceased has stated that on the day of the incident, as her husband did not like the curry of potato, he assaulted her with fist blows and kicks. Thereafter, her husband and mother-in-law went away from the house. She was frustrated due to everyday quarrel and therefore, she poured kerosene on her person and set herself on fire.

4. During investigation, the statement of PW7 Sulochana – the mother of the deceased was recorded by the Investigating Officer. Before the court, the said witness deposed that the deceased used to inform her that the respondent used to beat her on the ground that she was not doing the work properly or cooking properly and she was not going to the work of employment guarantee scheme. She, however, convinced the deceased and sent her back. During cross-examination, PW7 Sulochana admitted that about four months back, deceased Suvarna once went away from the matrimonial home to her parental uncle's house at Burhannagar in angry mood as

she was short-tempered.

5. PW7 Sulochana has not given any details of the incident by date, month or even year or the specific period. Further, her statement would show that the deceased was short-tempered. Further, one of the reasons for having the bickering was that the deceased was not going on work under the employment guarantee scheme. The parties are from poor labour class and in the circumstances, considering all the facts on record, the learned Sessions Judge has extended the benefit of reasonable doubt.

6. Considering all the material on record, in my view, the finding arrived at by the learned Sessions Judge cannot be called as perverse. A reasonable and probable view is taken by the learned Sessions Judge, based on the material before him. In the circumstances, grant of leave to file appeal would be an exercise in futility. The criminal application is, therefore, dismissed.

[M.T. JOSHI]
JUDGE