

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1535 OF 2015

The State of Maharashtra
Through Police Station,
Majalgaon [Rural],
Tq. Majalgaon, Dist. Beed

.. Applicant
(Orig. Complainant)

VERSUS

- 1] Manisha W/o Rajendra Thorat,
Age 27 years, Occu.: Agri.,
R/o Manjrath, Tq. Majalgaon,
Dist. Beed
- 2] Rajendra S/o Dadarao Thorat,
Age 30 years, Occu. & R/o.
as above
- 3] Deorao S/o Dadarao Thorat,
Age 28 years, Occu. & R/o
as above
- 4] Shakuntalabai W/o Dadarao Thorat,
Age 48 years, Occu. & R/o
as above
- 5] Sachindra S/o Dadarao Thorat,
Age 25 years, Occu. & R/o
as above
- 6] Surendra S/o Dadarao Thorat,
Age 23 years, Occu. & R/o
as above
- 7] Dadarao S/o Deorao Thorat,
Age 55 years, Occu. & R/o
as above

.. Respondents
(Orig. Accused)

Mr. A.R. Kale, A.P.P. for the applicant-State
Mr. Prasad B. Kadam, Advocate h/f Mr. S.J. Salunke, Advocate
for the respondent nos.1 to 7

CORAM : M.T. JOSHI, J.

DATE : 17/02/2016

ORAL ORDER :

Heard both sides.

2. Aggrieved by the acquittal of the respondents from the offences punishable under section 306, 498-A r/w. 34 of the Indian Penal Code, the State wants to prefer an appeal and, therefore, the present application for leave to file appeal is filed.

3. The prosecution case would reveal that deceased Mira wife of respondent no.3 - Devrao was married to him 8 years preceding her death. There were two male children born during the wedlock. For a period of 7 years of the married life, there was no ill-treatment. However, according to the prosecution, the ill-treatment started from about 1 year prior to the death of deceased - Mira.

. According to the complainant - brother of the deceased, all the present respondents used to ask her

to bring an amount of Rs.50,000/- from her brother and mother for construction of the house and to purchase drip irrigation system and on that count, they were ill-treating her.

. In the situation, about 15 days preceding the death of Mira, the complainant even withdrew an amount of Rs.30,000/- from his bank account and paid the same to the respondent nos.3 to 7. However, on 09/04/2013, i.e. two days prior to the death of the deceased, she informed on phone to the complainant that all the respondents were ill-treating her and, therefore, asked the complainant to visit her at her matrimonial home. However, on 10/04/2013, she committed suicide by jumping in a well and, therefore, the complaint came to be filed on 11/04/2013.

4. Before the learned Additional Sessions Judge, Majalgaon, 6 witnesses were examined. As regards the ill-treatment, we have three witnesses i.e. PW1 - Gorakh / complainant i.e. brother of deceased, PW2 - Mohan Bhosale and PW5 - Shahadeo Lengre.

5. The reasoning forwarded by the learned Additional Sessions Judge would reveal that PW5 - Shahadao was posed as an independent witness, however, during cross-examination, he admitted his relationship with the complainant.

. According to these two witnesses, i.e. PW2 and PW5, they had once visited the house of the accused to give understanding regarding the unlawful demand. It was found that though the complainant has stated that 15 days prior to the lodging of the report, he has withdrawn the amount from the bank, the record produced by the prosecution did not match with this statement.

. Most prominently, the complainant admitted that when he reached the village of the accused, upon receipt of the information about the missing of the deceased and her death, he called a meeting between him and the accused. He however denied that in the meeting, he made a demand of Rs.11 Lakhs for not filing the complaint. The fact however would remain that instead of immediately filing the complaint, he tried to have a settlement.

6. In that view of the matter, the detail reasons forwarded by the learned Additional Sessions Judge cannot be called as perverse one.

. Grant of leave to file appeal against the order of acquittal would be an exercise in futility. The Application is therefore dismissed. Leave is refused.

[M.T. JOSHI]
JUDGE

arp/