

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 1565 OF 2015

THE STATE OF MAHARASHTRA
VERSUS
SANTOSH GITARAM KARANDE AND OTHERS

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APP for Applicant : Mr. K. S. Patil.

Advocate for Respondents : Mr. S. D. Munde, h/f Mr. Rahul R. Karpe.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 14th March, 2016.

P.C.:

. Here is an application under Section 378 (1) (3) of the Code of Criminal Procedure for grant of leave to appeal against the judgment and order of acquittal passed by the learned Ad-hoc District Judge-4 and Assistant Sessions Judge, Ahmednagar on 24th December, 2014 in Sessions Case No.131 of 2013 for the offences punishable under Sections 498-A and 306 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for parties. Perused record.

3 Prosecution case in brief is as under :

Deceased Sunita was married to Accused No.1 Santosh on 7th May, 1999. The couple was blessed with two sons and two daughters. One of the sons Akash died before the death of Sunita.

4 According to prosecution initially for 5-6 years Sunita was treated well in her matrimonial house. Thereafter her husband and mother-in-law used to ask her to bring Rs.2,00,000/- from her parents for purchase of vehicle. It is alleged that she was harassed on non-fulfillment of demand. Before one month of incident Sunita was assaulted and driven out of the house. That time she had been to her parents house and disclosed to them about ill-treatment at the hands of Accused as their demand of Rs.2,00,000/- was not fulfilled. She again joined the company of her husband.

5 On 22nd August, 2012 she informed her brother on phone that her husband was insisting her to give consent for second marriage and she was being ill-treated by her husband, mother-in-law and other relatives. She also informed that she was fed up with the life and would not like to live further.

6 On 27th August, 2012 at 02:30 pm, Sunita committed

suicide by hanging at her matrimonial house. PW-2 Deepak brother of Sunita lodged report with Belwandi Police Station. On the basis of report crime was registered against the Accused. After investigation charge-sheet was submitted to the Court.

7 The learned Assistant Sessions Judge framed charge against the Accused. They pleaded not guilty and claimed to be tried. Prosecution examined in all 8 witnesses to substantiate the alleged guilt of Accused. After considering the evidence Trial Court found that prosecution has failed to prove the guilt of Accused beyond reasonable doubt and in consequence thereof acquitted the Accused. Being aggrieved by the judgment and order of acquittal State has preferred this application for leave to appeal.

8 With the assistance of the learned counsel for parties this Court has gone through the evidence of material witnesses particularly PW-2 Deepak, PW-3 Rukhmini and PW-4 Mohan. It can be seen from the evidence of these witnesses that marriage was performed in the year 1999. Death occurred in the year 2012. There was no previous complaint regarding alleged ill-treatment, demand of money or harassment at the hands of Accused.

9 According to PW-2 Deepak on 22nd August, 2012, Sunita called him on phone and stated that she was fed up with the life and would not like to live further. She was crying that time. It was not clear from the telephonic conversation that she was fed up because of alleged demand of Rs.2,00,000/- by Accused persons. So far as incident before one month of the death of Sunita is concerned, no report was lodged at the relevant time. The allegations were that she was assaulted and driven out of the house. The incident was serious. It was reported to the brother and others in the family. They chose not to lodge report and she was sent back.

10 Needless to state that under Section 306 of the Indian Penal Code nexus between alleged cruelty and suicide is *sine quo non* and in the absence of such nexus it cannot be said that Accused abetted commission of suicide by the deceased. Accused examined the witnesses and brought on record that Akash one of the sons of deceased and Accused No.1 died and since then deceased was under depression. Trial Court found defence raised by Accused more probable. This Court does not find any reason to take a view different than taken by the Trial Court. Application thus

deserves to be dismissed. Hence the following order:

ORDER

Criminal Application No.1565 of 2015 stands dismissed.

[INDIRA K. JAIN, J.]

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