

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2093 OF 2015

The State of Maharashtra,
through Police Station Officer,
Police Station, Sillod (Rural),
Tq. Sillod Dist.Aurangabad ..Applicant

Versus

Ganesh Bhikan Shrivane
Age 30 years, Occ. Private
Service, and others ..Respondents

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Mr.R.B.Bagul, APP for applicant - State

Mr.R.R.Imale, advocate for respondents

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CORAM : M.T. JOSHI, J.
DATE : JANUARY 12, 2016

PER COURT :

Heard both sides.

2] Aggrieved by the acquittal of the respondents from the offences punishable under Section 498-A, 306, 323, 504 read with 34 of the Indian Penal Code in Sessions Case No.93 of 2011 by learned Assistant Sessions Judge-2, Aurangabad, the State

wants to prefer an appeal and therefore, present application for grant of leave to file the appeal, is filed.

3] The prosecution case, in short, is as under :-

. That deceased Savita was married to respondent no.1 in the month of April, 2005. She died due to poisoning on 22nd August, 2010. In the meantime, she resided with all the respondents. During the wedlock, she has given birth to a male child.

4] Upon her death, her brother PW 4 – Raju Wadekar filed the complaint with Sillod (Rural) Police Station. It was complained in the FIR, that after about two years of marriage, respondent no.1 started giving illtreatment to the deceased as she was of black complexion and she was not of his choice and he wanted to perform second marriage. He also used to make demands for Rs.60,000/- for purchase of OMNI van. Respondent

no.2 used to abuse and beat the deceased under influence of liquor and respondent no.3 used to say that the deceased was not conversant with the household work. All the respondents used to illtreat the deceased and she used to narrate about the same when she used to come to the parental home. On the basis of this FIR, investigation was conducted.

5] It was proved before the trial court that the deceased has died due to poisoning. Learned Assistant Sessions Judge held that the deceased has committed suicide by administering poison to herself. Learned Assistant Sessions Judge, however, came to the conclusion that the case of illtreatment was not proved and therefore, acquitted the respondents.

6] The prosecution has examined the brothers of deceased Savita namely, PW 3 – Ramesh Wadekar, PW 4 – Raju Wadekar and PW 7 – Vijay Wadekar. PW 9 –

Ramlal Pimpale, relative of deceased, was also examined.

7] The statement made by PW 9 – Ramlal that the deceased told him that for demand of money to purchase of OMNI van, she was ill-treated and compelled to commit suicide, is an improvement to his earlier statement. Learned Assistant Sessions Judge appreciated the evidences of the brothers of the deceased and came to the conclusion that the prosecution has failed to prove beyond the reasonable doubt that the respondents have ill-treated the deceased.

8] Learned APP for appellant – State submits that learned Assistant Sessions Judge has unnecessarily given weightage to the contradiction in the statement of PW 9 – Ramlal.

9] On the other hand, learned counsel for the respondents submits that the material on record would justify that the view taken by the learned

Assistant Sessions Judge is a probable and reasonable view.

10] In my view, the application deserves to be dismissed for the reasons to follow.

R E A S O N S

11] The evidence of the brothers of the deceased would show that the deceased and respondent no.1 are cousin sister and brother i.e. maternal brother. This couple all alone had visited various places before the marriage meaning thereby that the couple had, on their own, agreed to marry each other. It was a love marriage. In the circumstances, the prosecution case, that respondent no.1 did not like the deceased being of black complexion, would be improbable.

12] The admissions from the side of prosecution witnesses would show that one of the brothers of

the deceased was in jail for certain offences. Their father was booked in many cases. Not only this, complainant Raju has also faced criminal trial for the offences punishable under section 498A and 306 of Indian Penal Code along with his some relatives because of suicide by his own wife. In the circumstances, learned Assistant Sessions Judge has appreciated the testimonies of these witnesses and found that same as not reliable. Some contradictions in their statements are also appreciated.

13] Having considered the material on record, in my view, the conclusion arrived at by learned Assistant Sessions Judge, cannot be called as unreasonable and improbable. In the circumstances, present application for grant of leave to file appeal is hereby rejected. Leave refused.

[M.T. JOSHI, J.]

kbp