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

CRIMINAL REVISION APPLICATION NO. 305 OF 2002

Bapu s/o Waman Patil,
Age: 60 years, Occu: Agriculturist,
R/o. Amalner, Dist. Jalgaon

..APPLICANT

VERSUS

1. State of Maharashtra
2. Murlidhar s/o Lotan Patil,
Age: 28 years, Occu: Agriculturist
(deleted as per Court's order
dated 11/01/2016)
3. Pramilabai w/o Lotan Patil,
Age: 55 years, Occu: Household
4. Kailash s/o Lotan Patil,
Age: 32 years, Occu: Service
5. Surekha w/o Kailash Patil,
Age: 22 years, Occu: Household

All Accused No. 2 to 5
R/o. Velhane, Tal. Parola,
Dist. Jalgaon

..RESPONDENTS

Mr A.P. Yenegure, Advocate holding for Mr P.S. Patil, Advocate for applicant;
Ms R. P. Gaur, Addl. Public Prosecutor for respondent No. 1;
Mr R. S. Shinde, Advocate holding for Mr N. L. Choudhari, Advocate for respondent Nos. 2 to 5

CORAM : N.W. SAMBRE, J.

DATE : 27th April, 2016

ORAL JUDGMENT :

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This is a revision against acquittal ordered by learned Assistant Sessions Judge, Amalner, on 5th September, 2002, in Sessions Case No.50 of 2001, acquitting respondents no.2 to 5 – accused of offences punishable under sections 498-A, 304-B read with section 34, in the alternative section 306 of the Indian Penal Code.

2. Facts as are necessary for deciding the present revision are as under :-

The present applicant is original complainant, whose daughter Jyoti was married to respondent no.2. It is then claimed that deceased Jyoti was subjected to illtreatment on account of demand of dowry. On 3rd October, 2001 Jyoti died of burn injuries. It is claimed that she had committed suicide. As a consequence of above, the offence in question came to be registered against the respondents – accused.

3. It is important to note that respondent no.2 - original accused no.1 Murlidhar, husband of deceased Jyoti died on 28th November, 2004, as is apparent from the death certificate brought on record, as a consequence, the revision against him abates as he was ordered to be deleted.

4. It is the case of the prosecution that on 3rd October, 2001 the present applicant Bapu lodged a complaint that the present respondents-accused used to illtreat his daughter Jyoti, who was married to respondent no.2. It is claimed that a demand of Rs.30,000/- towards dowry was made.

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The post card written by Jyoti to her father was also placed on record in the form of evidence, which had resulted into registration of C.R. No.170 of 2001 with police station, Parola, for offences punishable under sections 498-A and 306 read with section 34 of the Indian Penal Code.

5. After completion of investigation, charge-sheet came to be filed. Charge came to be framed against the respondents – accused vide Exh.24. The respondents abjured the guilt and claimed to be tried. In support of its case, prosecution has examined eight witnesses, as under :-

- 1) P.W.1 complainant Bapu Patil at Exh.41;
- 2) P.W.2 Rajendra Rupchnd Patil at Exh.44;
- 3) P.W.3 Rajendra Babulal at Exh.46;
- 4) P.W.4 Vasant Patil at Exh.47;
- 5) P.W.5 Mirabai at Exh.48;
- 6) P.W.6 Bhaidas at Exh.50;
- 7) P.W.7 Bharati at Exh.53 and
- 8) P.W.8 Ramesh Athawale at Exh.57.

6. Upon perusal of original record of the court below, it is noted that P.W.1 complainant Bapu Patil; P.W.4 Vasant Patil, a panch in whose presence a post card written by deceased Jyoti to the complainant Bapu was seized; P.W.5 Mirabai - wife of complainant Bapu, P.W.7 Bharati and P.W.8 Investigating Officer have supported the case of the prosecution.

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P.W.2 Rajendra Rupchand, a panch witness; P.W.3 Babulal, a panch witness and P.W.6 Bhaidas have not supported the prosecution case and were declared hostile.

7. According to P.W.8 Investigating Officer Ramesh, the applicant – complainant had approached him with an intimation about the death of his daughter and as such, an accidental death was registered. He prepared the inquest and spot panchnama. He seized wooden plank, one stove, lamp and other articles vide panchnama at Exh.45. The complaint scribed by the writer of the Investigating Officer is at Exh.42. He then recorded statements of the witnesses and supplementary statement of the complainant. He seized a post card handed over by the complainant vide seizure panchnama Exh.48 and arrested accused persons on 3rd October, 2001 and 30th October, 2001. In cross-examination he has stated that he had received information about the accidental death on 3rd October, 2001 at 14.15 hours and reached the village at 2.30 p.m. According to him, dead body was identified by complainant and the other witnesses P.Ws. 1 and 2 were present on the spot. He has admitted in cross-examination that though he tried to secure admitted handwriting of deceased Jyoti, he could not secure the same.

8. P.W.1 complainant has proved the contents of the complaint Exh.42 and in cross-examination he has deposed about demand of Rs.30,000/-. He also claimed that there was no dispute between him and accused no.2 Pramila. According to him, accused no.3 Kailas is working

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as a Teacher. Though he has claimed that he and P.W.6 Bhaidas went to the place of the accused so as to tell them to treat deceased Jyoti properly, still the said witness Bhaidas has turned hostile. He has then stated that deceased Jyoti delivered a dead boy and the expenses of delivery were borne by the accused persons. He has admitted that deceased Jyoti, having lost her son, was in depression/disturbed condition after her delivery.

9. P.W.2 Rajendra Patili and P.W.3 Rajendra Babulal, who are panch witnesses, have turned hostile. P.W.4 Vasant, a witness to the seizure of post card Exh.48 has proved the seizure, however, there is hardly any material to establish that the said post card was in the handwriting of deceased Jyoti. P.W.5 Mirabai, the mother of deceased Jyoti has deposed at Exh.49, however, she was unable to narrate in her cross-examination as to when for the first time there was demand of money by the accused persons. She has admitted that deceased Jyoti was admitted for delivery by the accused persons. She has admitted that on festive occasions, deceased Jyoti used to reside with them for 7 to 8 days. She then claimed that she came to know about the death of Jyoti from Bhaidas, however, P.W.6 Bhaidas has turned hostile and has rather supported the defence version.

10. Upon perusal of evidence of P.W.1 Bapu and P.W.5 Mirabai, it could be noticed that the accused persons treated Jyoti well, as she was permitted to reside with her parents on festive occasions for 7 to 8 days.

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They hospitalized Jyoti for delivery and incurred the expenses. The alleged demand of Rs.30,000/- is not at all proved.

11. The contents of post card Exh.48 could not be ascertained as that of in the handwriting of Jyoti. However, even if the contents of the post card are read, there is hardly any material to infer any demand of money. What is reflected in Exh.48 is disturbing atmosphere in her marital house as a quarrel was going on, however, no details as regards quarrel are mentioned.

12. It is an admitted position on record that deceased Jyoti was hospitalized for delivery by the accused persons and she delivered a dead boy, from which point of time she was disturbed, rather was in depression. From the said condition of deceased Jyoti, it could also be inferred that she might have committed suicide because of the said sufferance, i.e. loss of her son.

13. In the above background, if the case as is sought to be put-forth by complainant Bapu is examined, in my opinion, the acquittal as is ordered is just and proper. The husband of deceased Jyoti, i.e. respondent no.2 has already expired during the pendency of the revision.

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14. In view thereof, in my opinion, no interference in revisional jurisdiction against the order of acquittal is called for. Thus, Criminal Revision fails and stands rejected.

(N.W. SAMBRE, J.)

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