

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

CRIMINAL APPEAL NO.467 OF 2015

Vishnu s/o Pandurang Gutte ... APPELLANT

VERSUS

Anant s/o Nanasaheb Gutte & ors. ... RESPONDENTS

.....
Shri Sandip Swami, Advocate holding for
Shri V.D. Gunale, Advocate for appellant
Shri B.V. Virdhe, A.P.P. for respondent No.8/State
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CORAM: A.I.S. CHEEMA, J.

DATED: 25th January, 2016.

ORAL ORDER :

1. Heard learned counsel for the appellant (original complainant). This appeal has been tendered against the judgment and order of acquittal, passed in Sessions Trial No.15/2009, passed by the Additional Sessions Judge, Gangakhed. It is stated that, deceased Devkabai, Resident of Pangri was appointed as "Bal Tai" for village Pandhrewadi. She

reported at Ghatnandra Centre and resumed duty at village Pandhrewadi. The villagers of Pandhrewadi including the accused persons were not in favour of a woman from other village being appointed as Bal Tai and they were opposing the appointment of Devkabai. It is stated that, on 29.4.2008, the accused No.1 had phone called the appellant/ original complainant who is husband of deceased Devkabai and asked that the resignation of Devkabai be taken otherwise to face consequences. It is stated that, Devkabai had been to Ghatnandra Centre on 29.4.2008. There was an information received from Sachin, brother of complainant that Devkabai had been administered poison and she had been taken in Maruti Van to Primary Health Centre, Rani Savargaon. The victim was admitted to Sub-District Hospital, Gangakhed where she was declared dead. In this matter, earlier crime was registered under Section 302 and other Sections of the Indian Penal Code, but after investigation, the charge sheet came to be filed under Sections 306, 323, 504, 506 read with Section 34 of the Indian Penal Code and trial has taken place accordingly.

2. The learned counsel submits that, there is evidence of the witnesses which shows that all the accused persons were present at the time of incident when Devkabai was noticed in front of the house of accused No.1 in a condition requiring her to be taken to the hospital. The counsel submits that, there was

evidence of P.W.2 Sachin that the accused had administered medicine to the victim, due to which she died. The learned counsel submitted that, there was no reason for Devkabai to commit suicide.

3. I have gone through the copies of evidence of P.W. 2 Sachin Gutte, P.W.7 Ramdas Mundhe and P.W.8 Laxman, which have been tendered by the learned counsel for the appellant, which are taken on record and marked "X" Colly. for identification. I have considered the reasonings recorded by the trial Court. The evidence of P.W.2 Sachin Gutte, in para 3 is that, when after feeding cattle, he was proceeding towards the field of accused No.1 he saw that, accused No.1, 3 and 5 were proceeding to Rani Savargaon on motorcycle. He deposed that, accused No.1 with one Baburao and P.W.7 Ramdas Mundhe brought one White Maruti Car and after some time they have taken Devkabai in Maruti Car. This witness further deposed that, Devkabai was lying in front of house of accused No.1. Accused No.6 and 7 were also present there. He then deposed that, accused No.1 to 7 were holding deceased Devkabai. He claimed that, *"They had administered medicine to her."* He does not appear to have stated that he himself saw the medicine being administered. He has been wavering on this count in his cross-examination also. The evidence of P.W.7 rather shows that, the

accused persons had taken Devkabai to the hospital. Had they administered the medicines, they would not have done so. Trial Court discussed the evidence of P.W.8 Laxman to observe that it does not say that any of the accused was seen administering medicine to the victim.

Only because villagers were opposing her appointment, if victim over-reacted in front of house of accused No.1, it cannot be treated as abetment to commit suicide. The subsequent acts of accused trying to take her to hospital cannot be construed against the accused.

4. The trial took place for offence under Section 306. The trial Court has discussed the evidence that the appointment of the victim as Bal Tai was being opposed by the villagers and trial Court has also discussed that there was evidence before the Court to conclude that an enquiry in respect of submission of false documents against deceased Devkabai had been initiated. The trial Court took note of these facts and concluded that, it was not proved that the accused persons instigated Devkabai to commit suicide.

5. Going through the material available, the view taken of the evidence is possible view. There is no reason to interfere

in the acquittal.

6. For the above reasons, admission of the appeal is declined. Appeal stands dismissed.

(A.I.S. CHEEMA, J.)

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