

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

CRIMINAL APPLICATION NO. 3266 OF 2015

The State of Maharashtra

... Applicant

VERSUS

Rajesh s/o Mahadeo Adagale & Ors.

... Respondents

.....
Mr S. D. Ghayal, APP for applicant/State
Mr Prasad Kadam, Advocate h/f Mr S. J. Salunke,
Advocate for respondents No. 1 to 5
.....

CORAM : **INDIRA K. JAIN, J.**
DATE : **25TH JANUARY, 2016.**

PER COURT:

. This 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 Additional Sessions Judge, Beed on 27th February, 2015 in Sessions Case No. 66 of 2014, for the offences punishable under Sections 498A, 306 read with 34 of the Indian Penal Code.

2. Heard learned APP for applicant/State and Mr Kadam, learned Advocate for respondents. Perused record.

3. The facts giving rise to the present application may be stated in brief as under : -

On 15th July, 2013 Manisha was married to respondent No. 1 Rajesh Adagale, resident of Belgaon, Tq. Georai, Dist. Beed. On 27th August, 2013 she died at her matrimonial house. PW3 Ram Dhurandare father of Manisha lodged report with the police station alleging therein that respondent No. 1 and his relatives ill-treated Manisha for insufficient dowry and for not properly honouring them at the time of marriage. On the basis of report, crime was registered against the respondents. Investigation was conducted. Charge-sheet was filed on completion of investigation to the learned Judicial Magistrate First Class, Georai, who in turn committed the case for trial to the court of Sessions.

4. The learned Additional Sessions Judge framed charge against the accused. Accused pleaded not guilty and claimed to be tried. Prosecution examined in all six witnesses to substantiate the alleged guilt of accused. Considering the evidence, trial Court came to the conclusion that prosecution could not prove the guilt of

accused beyond reasonable doubt and in consequence thereof, order of acquittal was passed by the learned Additional Sessions Judge.

5. The State being aggrieved by the order of acquittal has preferred this application for grant of leave to appeal. Learned APP vehemently submitted that death of Manisha occurred in 1 month 12 days of marriage at her matrimonial house. It was for the respondents to explain the cause of death and circumstances under which Manisha died. Learned APP submitted that evidence of ill-treatment was not correctly appreciated by the trial Court though father and mother of the deceased have categorically stated that she was ill-treated at the hands of her husband and other family members for insufficient dowry and for not honouring them properly at the time of marriage.

6. In response learned counsel for respondents submitted that, Manisha was not happy with the marriage. In fact, she was not ready to marry respondent No. 1. The marriage was thrust on her and so being disappointed she ended her life for which respondents cannot be held responsible. The learned counsel submits that evidence has been legally appreciated by the trial Court. No

perversity can be noticed and under these circumstances, leave to appeal be refused.

7. With the assistance of the learned APP, this Court has gone through the evidence of PW3 Ram Dhurandare and PW4 Janabai Dhurandare. Their evidence appears to be consistent in material particulars. The fact cannot be lost sight of that death occurred in 1 month and 12 days of marriage at the house of respondent Nos. 1 and 2. The cause of death stated by PW5 Medical Officer is due to unknown poisoning. No plausible explanation appears to have been offered by respondent Nos. 1 and 2 under Section 106 of the Indian Evidence Act. Under these circumstances, this Court finds that there is an arguable case for the State.

8. (i) Criminal Application for leave to appeal is thus allowed.
- (ii) Leave granted.
- (iii) Appeal is admitted.
- (iv) Action under Section 390 of the Code of Criminal Procedure.

[INDIRA K. JAIN, J.]