

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3326 OF 2015

The State of Maharashtra,
Through Police Station Officer,
Sirsala Police Station,
Tq. Parli Vaijnath,
Dist.Beed

..Applicant

Versus

1] Ramrao s/o. Walu Rathod,
Age 70 years, r/o. Vasantpur
Tanda, Kanadi, Tq. Parli,
Vaijnath, Dist. Beed

2] Sagarbai w/o. Ramrao Rathod,
Age 65 years, r/o. As above

..Respondents

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Mr.R.V.Dasalkar, APP for applicant - State
Mr.Vijay Sharma, advocate for respondent nos.1
and 2

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 22, 2016

ORAL ORDER :

Heard both sides.

2] Aggrieved by the acquittal of the
respondents/accused from the offences punishable

under Section 498-A, 306, 594, 506-II read with 34 of Indian Penal Code vide judgment and order dated 13th March, 2015 passed by learned Addl. Sessions Judge, Ambajogai in Sessions Case No.53 of 2014, the State wants to prefer an appeal and therefore, present application for grant of leave to file appeal, is filed.

3] The prosecution case would show that the present respondents are father-in-law and mother-in-law, respectively, of deceased Sangita. Deceased Sangita had married to the son of the present respondents namely, Narayan six years prior to the present incident.

. The incident has occurred on 17th October, 2013. Deceased Sangita Suffered grievous burn injuries and therefore, she was admitted to S.R.T.R. Medical College and Hospital, Ambajogai. PW 2 – Dinkar Ekal, A.S.I. of Ambajogai Police

Station, visited the said hospital on receiving information from the Medical Officer. Thereat, PW3 — Dr.Kaushal Kondawar examined the deceased and concluded that the deceased was in a position to make statement. Accordingly, PW 2 - Dinkar Ekal has recorded the statement of the deceased at Exhibit 19.

. In the statement, she has stated that she wanted to continue with her education. In the circumstances, on 17th October, 2013, in the house when she expressed said desire, present respondents questioned as to what was the necessity to continue with the education as there are no chances of securing any job by her. During the conversation, they started abusing the deceased and challenged that their first daughter-in-law has died due to burns and nobody could take any action against them and if deceased Sangita would die, they would sell their two acres of land and would get relieved themselves from any

trouble. In the circumstances, deceased Sangita poured kerosene on her person and set herself on fire. Eventually, she died and therefore, the crime came to be registered.

4] Before the learned Addl. Sessions Judge, all the relevant witnesses were examined. Learned Addl. Sessions Judge found that there are certain erasures in the dying declaration recorded by PW 2 at Exhibit 19. He found that the evidence of the Medical Officer is insufficient to satisfy that the deceased was able to make a conscious statement about the facts. Ultimately, it was observed that all the allegations would not show that there was *mens-rea* of abetment to commit suicide and in the circumstances, the respondents came to be acquitted.

5] Learned A.P.P. for the applicant - State submits before me that the very fact that the present respondents had challenged the deceased

to die, would show that they had abetted commission of suicide. He further submits that the evidence of the Medical Officer would clearly show that the deceased was able to make a conscious statement.

On the other hand, Mr.Sharma, learned counsel [6 for the respondents, submits that the material on record would not show that the deceased was mentally sound to make any dying declaration. Further, there was no conscious abetment by the respondents to commit suicide by the deceased. If during the course of heated exchanges, certain statements are made which, ultimately, resulted in commission of suicide, it would not constitute an .abetment to commit the suicide

7] Upon hearing both sides, in my view, learned Addl. Sessions Judge has taken into consideration all the material on record. We have already found that PW 3 – Medical Officer simply deposed that

he had examined the patient and she was able to make a statement. This would not show that the Medical Officer has examined the patient to see as to whether, she was oriented and conscious to make a statement. Not only this, if certain comments during the heated exchanges are made, which resulted into commission of suicide by the deceased, it would not amount to an abetment to commit the suicide.

8] The learned Addl. Sessions Judge has, therefore, rightly relied upon the ratio laid down in the cases of (i) *Gangula Mohan Reddy Vs. State of A.P.*, AIR 2010 SC 327; (ii) *M. Mohan Vs. State, represented by the Deputy Superintendent of Police*, AIR 2011 SC 1238.

9] In the circumstances, present application for grant of leave to file appeal, deserves to be rejected.

10] In the result, the application is rejected.
Leave refused.

[M.T. JOSHI, J.]

kbp