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

CRIMINAL REVISION APPLICATION NO.21 OF 2004

Bhagwan S/o Nabaji Shinde,
Age: 45 years, Occ: Agriculture
Dist: Aurangabad

..APPLICANT

VERSUS

- 1] The State of Maharashtra
through the Police Station,
M.I.D.C. Paithan, Tq. Paithan,
Dist. Aurangabad.
- 2] Vilas s/o. Sakharam Dilwale
Age: 25 years, Occ: Agriculture
R/o. Varud, Tq. Paithan,
Dist. Aurangabad
- 3] Sakharam S/o. Laxman Dilwale
Age: 45 years, Occ: Agriculture
R/o. Varud, Tq. Paithan,
Dist. Aurangabad
- 4] Meerabai W/o. Sakharam Dilwale
Age: 42 years, Occ: Agriculture
& Household
R/o. Varud, Tq. Paithan,
Dist. Aurangabad.
- 5] Kailash S/o. Sakharam Dilwale
Age: 18 years, Occ: Agriculture
R/o. Varud, Tq. Paithan,
Dist. Aurangabad

..RESPONDENTS

Mr G.G. Vayal, Advocate for applicant(absent);
Mr N.T. Bhagat, A.P.P. for respondent No. 1

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CORAM : N.W. SAMBRE, J.**DATE : 20th August, 2016****ORAL JUDGMENT :**

Mr. G.G. Vayal, learned counsel for the applicant is absent, as such, this Court heard learned A.P.P. on the merits of the matter.

2. Present respondent Nos. 2 to 5 are accused persons in Crime No.88 of 2001 for the offence punishable under Sections 498-A, 306 read with Section 34 of the Indian Penal Code registered pursuant to the complaint date 25th September, 2001. The case of the prosecution is that Nirmala daughter of Bhagwan Shinde, Complainant herein, was married to respondent No.2, who was born to respondent Nos.3 and 4. Respondent No.5 is real brother of respondent No.2. Nirmala died of consuming of Kerosene, as is reflected from the post-mortem report dated 25th September, 2001, within a period of about three years from the date of her marriage, which is 28th April, 1999.

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3. Initially, Accidental Death Case No. 25 of 2001 was registered and inquest panchnama at Exhibit-16 was drawn along with spot panchnama at Exhibit-19.

4. It is the case of prosecution, as is narrated in the complaint that Nirmala was after the marriage was initially properly treated for six months and thereafter the respondents used to beat Nirmala, as such, drove her to commit suicide. There are also allegation of cruelty.

5. 5th Adhoc Assistant Sessions Judge, Aurangabad acquitted the accused persons for an offence punishable under Sections 498-A, 306 read with Section 34 of the Indian Penal Code, by judgment and order dated 31st December, 2003. The State has not preferred any appeal against the acquittal, however, complainant Bhagwan, father of Nirmala preferred present revision application against the acquittal.

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6. I have perused the judgment delivered by the Court below along with papers as are available. It is to be noted that in support of prosecution case, in all five witnesses were examined i.e. PW-1 Bhagwan, complainant, father of deceased Nirmala, PW-2 Satyabhamabai, mother of deceased Nirmala, PW-3 Babasaheb, brother of deceased Nirmala, PW-4 Pralhad, panch to the inquest panchnama (Exhibit-16), PW-5 ASI Ashok Jaharwal, the Investigating Officer. The other documentary material that is taken in to account is inquest panchnama (Exhibit-16), A.D. Case No.25 of 2001 at Exhibit-18, based on information received from police patil, post mortem report (Exhibit-20).

7. PW-4 Pralhad, who is panch witness, to the inquest panchnama, has turned hostile.

8. It is to be noted that the evidence of PW-1, PW-2 and PW-3 i.e. father, mother and brother of deceased Nirmala, is required to be evaluated

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independently so as to draw inference as to whether the ingredients of the offence punishable under Section 498-A of the Indian Penal Code are satisfied and whether practising such cruelty the present respondents-accused have abetted suicide of Nirmala. One more aspect of which this Court must take note of, presumption under Section 113-A of the Indian Evidence Act can be drawn, as the death of Nirmala is within a period of three years from the date of her marriage.

9. The post mortem report and other evidence rules out the administering of kerosene to deceased Nirmala by exerting physical force but for simple C.L.W. on the fore head, no other injury was noticed so as to infer any resistance by Nirmala qua the act of forcing her to consume kerosene. Apart from above no other external injuries are noticed on the body of deceased Nirmala.

10 One more aspect of the matter is relatives of the complainant i.e. PW Nos. 1 to 3 are

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residents of same place, where the present respondents-accused were residing and duration of period for which Nirmala stayed with her in laws was about two to three years. During this two to three years period, Nirmala visited about thrice to her parental house and present applicant or PW Nos. 2 and 3 had at no point of time brought to the notice of relatives from same village where respondents were residing so as to mediate or to lodge any complaint to that effect. Be that as it may, what could be noticed from the evidence that is brought on record is that deceased Nirmala though was married for almost three years back was unable to conceive and as such, she was under disturbed state of mind, as other married girls of her age are already blessed with children. That could be one of the reason why Nirmala has committed suicide.

11. From the above discussion and other material available on record, it is really difficult to infer that suicide by Nirmala was

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abetted by present respondents-accused. The above referred view is based on the evidence of PW-2 Satyabhamabai.

12. It is then required to be noted that so far as the ingredients of offence punishable under Section 306 of the Indian Penal Code is concerned, there is hardly any material on record, much less the evidence of PW Nos. 1 to 3 to infer that the respondent's conduct and were having knowledge that their conduct will drive Nirmala to commit suicide.

13. In view of above, in my opinion, the acquittal as is recorded, does not call for any interference. The revision application, as such, is devoid of any merits, fails and stands dismissed.

(N.W. SAMBRE, J.)