

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

**CRIM. REVISION APPLICATION
NO. 151 OF 2004**

Manohar s/o Dhanaji Patil

Age : 50 Yrs., Occ. Service,

R/o : Plot No. 12,

Ishwar Colony, Old Mehroon

Road, Jalgaon.

.... APPLICANT

VERSUS

1. The State of Maharashtra
2. Ravikant s/o Baliram Suryawanshi
Age : 30 Yrs., Occ. Service,
R/o : Shankarwadi, Jalgaon.
3. Baliram s/o Tukaram Suryawanshi
Age : 55 Yrs., Occ. Service,
R/o : Bhambalwadi, Tq. Raver,
Dist : Jalgaon.
4. Sow. Surekha Ashok Kandelkar
Age : 40 Yrs., Occ. Household,
R/o : Nimkhedi (Bk.),

Tq. Muktainagar, Dist.
Jalgaon.

.... RESPONDENTS

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Mr. V.D.Sapkal, Advocate for Applicant.
Mr. K.S.Hoke Patil, A.P.P. for R - 1 - State.

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CORAM : Z.A.HAQ, J.
DATE OF JUDGMENT : 14th DECEMBER, 2016

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ORAL JUDGMENT :

01. Heard Mr. V.D.Sapkal, learned Advocate for the applicant and Mr. K.S.Hoke Patil, learned A.P.P. for the non-applicant No. 1 - State.

02. The applicant [father of deceased Jyoti] has challenged the Judgment passed by the learned Ad-hoc Additional Sessions Judge acquitting the accused of the offences punishable u/ss 498-A,304-B,306 read with section 34 of the Indian Penal Code.

03. The non-applicant Nos. 2 to 4/accused [husband, father-in-law and sister-in-law respectively

of the victim] were prosecuted for the offences punishable u/ss 498-A,304-B,306 read with section 34 of the Indian Penal Code. According to the prosecution, the marriage between deceased Jyoti and accused Ravikant was performed on 25/03/1998 and on 09/08/2000 Jyoti was found dead with 100% burn injuries in the bathroom of her matrimonial house. The case of the prosecution is that Ravikant [husband of deceased] and Baliram [father-in-law of deceased] had been demanding money and were insulting and illtreating deceased Jyoti.

04. After conducting the trial, the learned Ad-hoc Additional Sessions Judge concluded that the prosecution has failed to prove that the accused Nos. 1 and 2 [husband and father-in-law of deceased Jyoti] subjected deceased Jyoti to cruelty and that the accused are the cause of dowry death of deceased Jyoti. The learned Ad-hoc Additional Sessions Judge acquitted the accused.

05. With the assistance of the learned

Advocate for the applicant and the learned A.P.P., I have gone through the impugned Judgment. The death of deceased Jyoti has taken place in the matrimonial house within 2 ½ years of her marriage. There are accusations and evidence on record regarding demand of money and illtreatment. The learned Ad-hoc Additional Sessions Judge, after examining the material on record, has concluded that cruelty as contemplated u/s 498-A of the Indian Penal Code is not proved and by a passing reference has recorded that presumption u/s 113-A of the Indian Evidence Act will not be attracted.

06. In my view, the conclusions and approach of the learned Ad-hoc Additional Sessions Judge is perverse and unsustainable in law. The learned Ad-hoc Additional Sessions Judge has not properly appreciated the evidence on record in the light of the provisions of Section 113-A of the Indian Evidence Act. In my view, the impugned Judgment is required to be set aside and the matter has to be remanded to the Sessions Court for fresh decision.

Hence, the following order :

- [i] The impugned Judgment is set aside.
- [ii] The matter is remitted to the Court of Sessions Judge, Jalgaon, who may himself decide the matter or make it over to any other Court.
- [iii] The matter shall be decided after considering the evidence already on record. It is clarified that the parties are not permitted to bring any further evidence on record.
- [iv] The learned A.P.P. assures that the State of Maharashtra will be represented before the learned Sessions Judge on 20/01/2017.
- [v] The Sessions Court shall issue notice to the accused or secure their presence according to law and dispose of the matter till

02/05/2017.

[vi] The Criminal Revision Application is allowed
in the above terms.

[Z.A.HAQ, J.]

KNP/Cr.Revn.ApIn. 151.2004 - [J]