

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 4059 OF 2015

THE STATE OF MAHARASHTRA
VERSUS
NAVNATH UTTRESHWAR HORE AND OTHERS

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APP for Applicant : Mr. S. G. Karlekar.

Advocate for Respondents : Mr. Anant R. Devakate.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 14th March, 2016.

P.C.:

. 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 dated 23rd April, 2015 passed by the learned Adhoc Additional Sessions Judge, Bhoom, District Osmanabad in Sessions Case No.29 of 2014 for the offence punishable under Section 306 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for parties. Perused record.

3 Prosecution case in brief is as under:

On 3rd December, 2010 PW-1 Complainant Laxman

Manik Kakade resident of Pimpalwadi, Taluka Paranda, District Osmanabad lodged complaint with Police Station Paranda alleging that his son Pramod Kakade aged about 22 years committed suicide due to harassment at the hands of Accused persons. According to Complainant there was a dispute between Complainant and Accused in respect of Bajaj motorcycle. Accused were claiming that motorcycle belonged to them whereas Complainant was claiming that he was the owner of motorcycle. Dispute has gone to such an extent that Pramod son of Complainant was required to lodge a complaint against Accused in the police station.

4 It is the contention of prosecution that Accused were pressurizing Pramod to withdraw the complaint lodged with the police station. On 1st December, 2010 in the morning Accused had a quarrel with Complainant and his son. It is alleged that Accused went to the house of Complainant, caught hold handle of motorcycle and again raised dispute over motorcycle. In the evening on the same day Pramod committed suicide by consuming poison. A report as stated above was lodged to the police station by father of Pramod alleging that due to continuous harassment at the hands of Accused on motorcycle Pramod took extreme step and ended his

life by consuming poison.

5 On the basis of report crime was registered and investigation was conducted. On completing investigation charge-sheet was submitted before the learned Judicial Magistrate First Class, Paranda who in turn committed the case for trial to the Court of Sessions.

6 Charge was framed against the Accused. They pleaded not guilty and claimed to be tried. Prosecution examined in all 11 witnesses. Considering the evidence of prosecution witnesses and material placed on record learned Additional Sessions Judge came to the conclusion that prosecution case was entangled with shadow of doubt. As a result thereof Accused were acquitted. Being aggrieved instant application for leave to appeal has been preferred by the State.

7 With the assistance of the learned counsel for parties this Court has gone through the evidence of prosecution witnesses. It appears that incident took place on trivial issue of ownership of motorcycle. Accused were claiming that motorcycle belonged to them whereas Complainant was claiming the ownership over the

motorcycle. On the fateful day in the morning again dispute arose between the parties. It is the case of prosecution that Pramod consumed poison and due to continuous harassment at the hands of Accused committed suicide. C.A. report negatives the theory of suicidal attempt by Pramod as no poisonous substance was detected in the sample. Prosecution therefore could not prove the mode of death as suicidal death.

8 So far as abetment is concerned prosecution has also come with a story that there was political rivalry and Pramod was being abused and threatened by the Accused and so he committed suicide. On going through the depositions of witnesses it can be seen that there is no evidence to show political enmity in view of Gram Panchayat election in the village. On the contrary it has come on record that none of the parties i.e. either Complainant or Accused had contested the election. The story put forth by the prosecution is thus unacceptable and unbelievable.

9 Needless to state that for abetment under Section 306 of the Indian Penal Code prosecution has to establish abetment as defined under Section 107 of the Indian Penal Code. There is no nexus between alleged dispute over motorcycle, alleged

harassment at the hands of Accused and an attempt at the hands of Pramod to commit suicide.

10 In the absence of convincing and trustworthy evidence this Court finds that no purpose would be served if leave is granted.

Hence the following order –

ORDER

Criminal Application No.4059 of 2015 stands dismissed.

[INDIRA K. JAIN, J.]

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