

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

CRIMINAL APPLICATION NO. 4239 OF 2015

THE STATE OF MAHARASHTRA
VERSUS
BAPPASAHEB S/O DADARAO DAHI

...
APP for Applicant : Mrs. R. K. Ladda.

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CORAM : **INDIRA K. JAIN, J.**
DATE : 14th March, 2016.

P.C.:

. This application under Section 378 (1) (3) of the Code of Criminal Procedure is for grant of leave to file appeal against the judgment and order dated 13th May, 2015 passed by the learned Additional Sessions Judge, Ambajogai, District Beed in Sessions Case No.49 of 2014. By the said judgment and order learned Additional Sessions judge acquitted the Accused of the offences punishable under Sections 498-A and 306 read with 34 of the Indian Penal Code.

2 Heard Mrs. R. K. Ladda, learned APP. Perused record and judgment of Trial Court.

3 It is the case of prosecution that Sumedha was married to Accused No.1 Bappasaheb on 7th May, 2008. Accused No.2 Dadarao is father of Accused No.1. After marriage Sumedha was residing with Accused.

4 On 19th October, 2012 Sumedha was found dead in a lake of village Ambalwadi, Taluka Ambajogai. Incident was reported to Police. A.D. was registered. Dead-body was taken out of the lake. *In quest* Panchanama was drawn. It was followed by spot Panchanama. Postmortem was performed. Cause of death was found to be due to drowning.

5 On 20th October, 2012 Ashok Dattu Kshirsagar father of deceased lodged report alleging therein that his daughter committed suicide in view of ill-treatment at the hands of Accused. According to Complainant Accused used to raise suspicion on the character of deceased and they were making demand of Rs.50,000/- for purchase of auto-rickshaw. Sumedha was ill-treated on these counts.

6 On the report of father of deceased crime was registered. Investigation proceeded. On completion of investigation

charge-sheet was submitted before learned Judicial Magistrate First Class, Parli Vaijnath who in turn committed the case for trial to the Court of Sessions.

7 Charge was framed against the Accused. They pleaded not guilty and claimed to be tried. The defence of Accused was of total denial except the factum of relationship.

8 Prosecution examined in all four witnesses to substantiate the guilt of Accused. Important witness was PW-1 Complainant Ashok Dattu Kshirsagar (father of deceased). Evidence of Complainant was found vague and without material particulars and so Trial Court held that no reliance can be placed on such evidence. Consequently Accused were held not guilty and acquitted of the charge. Being aggrieved State has filed this application for grant of leave to appeal.

9 With the assistance of learned APP this Court has gone through the evidence of prosecution witnesses. Cause of death as stated above was due to drowning. Prosecution could not solve the mystery regarding mode of death whether accidental or suicidal. It

was incumbent on the prosecution to prove that mode of death was suicidal. There was no clinching evidence to indicate that deceased committed suicide.

10 Another drawback in the evidence of prosecution case was the absence of specific instances regarding alleged cruelty and ill-treatment at the hands of Accused. Evidence of PW-1 Ashok Dattu Kshirsagar father of deceased only indicates that Accused used to raise suspicion on the character of deceased and on demand of Rs.50,000/- for purchase of an auto-rickshaw she was being ill-treated by Accused. It is significant to note that no previous complaint was ever lodged against Accused making such grievances. In the absence of specific instances evidence of PW-1 Ashok Dattu Kshirsagar would not be sufficient to hold that deceased was ill-treated by Accused on the above two counts.

11 Accused raised specific defence that those were the days of *Navratri* festival. People used to wash their clothes on the bank of lake. Deceased might have gone to wash clothes and it was possible that she fell into the water of lake due to slip. Trial Court found defence raised by Accused more probable.

12 In the above background this Court finds that prosecution has no case on merits. No purpose would be served if leave is granted. Application thus deserved to be dismissed. Hence the following order -

ORDER

Criminal Application No.4239 of 2015 stands dismissed.

[INDIRA K. JAIN, J.]

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