

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

**BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 677 OF 2015**

Pandharinath s/o Narayan Bade,  
Age-28 years, Occ:Agriculture & Labourer,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.

**...APPELLANT**  
**(Orig. Complainant)**

**VERSUS**

- 1) Kisan s/o Dhanaji Pakhare,  
Age-66 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.
- 2) Sahebrao s/o Kisan Pakhare,  
Age-43 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.
- 3) Pandurang s/o Kisan Pakhare,  
Age-41 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed,
- 4) Gangaram s/o Abaji Pandhare,  
Age-52 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.
- 5) Dinkar s/o Gangaram Pandhare,  
Age-32 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.

- 6) Bhagwan s/o Gangaram Pandhare,  
Age-42 years, Occu:Agril.,  
R/o-Padali, Tq-Shirur (Kasar),  
Dist-Beed.
- 7) The State of Maharashtra,  
Through the Police Inspector,  
Police Station, Shirur (Kasar),  
Tq-Shirur (Kasar), Dist-Beed.

**...RESPONDENTS****(Resp. Nos.1 to 6 – Orig. Accused)****...**

Mr.Kishor D. Khade Advocate for Appellant.  
Mr.S.M. Ganachari, A.P.P. for Respondent No.7.

**...****CORAM: A.I.S. CHEEMA, J.****DATE : 2ND MAY, 2016****ORDER :**

1. Heard counsel for the Appellant – original complainant. This Appeal is against acquittal. Learned counsel states that the Respondents-accused had civil litigation with deceased Narayan and because of the litigation they were harassing the said Narayan. There was order passed in favour of Respondent No.4 in civil litigation and because of which their pressure increased on the victim

Narayan. Respondents were pressurizing him to handover the possession. The Hon'ble High Court had, in that civil litigation, granted stay but the accused persons made it difficult for the victim to live and because of which on 29<sup>th</sup> July 2013 he consumed poison and subsequently died on 1<sup>st</sup> August 2013. It is stated that in the trial Court there was evidence of PW-2 Bhimrao who was chairman of the dispute resolution committee of the village and even he tried to bring about amicable settlement between the parties but accused persons did not agree. The counsel says that one day before the incident dated 29<sup>th</sup> July 2013, on 28<sup>th</sup> July 2013 also accused persons have abused and threatened the victim and thus he committed suicide. The counsel says that in this regard evidence of PW-7, daughter-in-law was brought on record.

2. Heard learned A.P.P. also.

3. I have gone through the record and proceedings and the reasons recorded by the trial Court. It is admitted fact that there was civil litigation between the accused persons and the deceased and in the trial Court and District Court the accused persons had succeeded. It is stated that there was stay given by the High Court. It appears that the accused persons were insisting with the deceased for possession of the disputed land. In order to see as to what happened on 28<sup>th</sup> July 2013 (day prior to the date when allegedly poison was consumed by Narayan), I have gone through the evidence of PW-7 Surekha. In examination in chief she merely stated that accused persons had come and abused and threatened her father-in-law. Details of abuses and threats are not stated. Evidence with regard to Section 323 of I.P.C. also does not appear to have been there.

4. The trial Court has observed that legal

steps for seeking possession as per the order of the Court could not be considered as an overt act to bring pressure on the deceased Narayan by the accused. The trial Court discussed that regarding the incident dated 28<sup>th</sup> July 2013 the witnesses are family members of the deceased and they were interested witnesses. It was also found that the C.A. Report did not show that there was any poisonous substance found. The trial Court observed that it cannot be concluded that Narayan died due to consuming some poisonous substance. The trial Court considered the medical evidence, report of C.A. and the oral evidence and concluded that the offence was not established.

5. Even if it was to be said that accused persons had, after succeeding in the trial Court and District Court, asserted that the victim should hand over possession, that by itself cannot be interpreted as an abetment to commit suicide. No doubt, it would not have been appropriate on

the part of accused to insist with the victim directly to handover the possession and appropriate mode would be to seek execution of decree. However, merely because such assertion is made, that does not amount to abetment to commit suicide. Intention of such act cannot be treated as, wanting the losing litigant to commit suicide. There would be no need for it when accused had succeeded in two Courts. The reasonings recorded by the trial Court for acquitting the accuses persons, in the facts and circumstances of the matter, are possible view of the evidence. There is no reason to interfere in the acquittal.

6. Admission of the Appeal against acquittal is declined. The Appeal is dismissed.

**[A.I.S.CHEEMA, J.]**