

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

CRIMINAL APPEAL NO.737 OF 2015

Janabai wd/o Vishwanath Kambale                      ...      APPLICANT

VERSUS

The State of Maharashtra & others                      ...      RESPONDENTS

.....  
Shri D.M. Shinde, Advocate for applicant  
Shri S.M. Ganachari, A.P.P. for State

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CORAM:      A.I.S. CHEEMA, J.

DATED:      31st March, 2016.

ORAL ORDER :

1.            Heard counsel for the applicant. The counsel vehemently argued that, this was a matter where the trial Court has wrongly acquitted the accused persons for charge under Section 306 of the Indian Penal Code. The counsel fairly accepts that the victim Vishwanath Kamble died of heart attack on 21.2.2010. According to the learned counsel, the record shows that the accused persons who were Head Master and the

Management Committee of the school, had been continuously harassing the victim in his service and he was tried to be involved in bogus T.C. scandal. According to him, because of the undue pressure, the victim suffered the heart attack. According to the learned counsel, the cumulative effect of the acts of the respondents/ accused was such that the heart attack was caused and it should be treated as abetment to commit suicide.

2. The learned counsel alternatively submitted that, even if the trial Court felt that offence under Section 306 of the Indian Penal Code was not made out, the trial Court was competent under Section 212 of the Code of Criminal Procedure to alter the charge at any stage so as to invoke Section 511 of the Indian Penal Code.

3. Heard learned A.P.P. also for the State.

4. Going through the material available, I find it difficult to accept that if there was trouble in the service and the employee expired of heart attack in the night at his own home, the same could be called abetment to commit suicide. The judgment of the trial Court shows that, there was evidence that even earlier, the victim had suffered heart attack and at that

time fortunately he survived. Although there is attempt to show that the victim was being harassed, it appears that, there was a departmental enquiry in which even others were taken action against. It also appears that, the victim, who had joined the service as Peon, got promoted as Lab. Assistant and later on as Junior Clerk. Thus, it is not that there was any specific prejudice against the victim.

5. The other aspect is that, although the victim expired on 21.2.2010, the F.I.R. was registered only on 22.3.2010, which is after a month. It appears, the accused persons took a defence that P.W.2 and P.W.3, sons of deceased had applied for job on compassionate ground, which was not in the hands of the respondents and because of this the complaint was filed. Even if the defence is ignored, I do not find that there was a case to even frame a charge under Section 306 of the Indian Penal Code, from the allegations which were made. Section 511 of the Indian Penal Code referred by the learned counsel cannot stand alone. It has to be linked with some specific offence, punishable with imprisonment for life or imprisonment. The judgment of the trial Court shows that, it considered the provisions of Section 3(1)(x) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 also and did not find

evidence to convict the accused even under the said Section of the Act.

6. I do not think that there is material on the basis of which interference in the acquittal could be caused.

7. For such reasons, admission of the Appeal is declined. Appeal is dismissed.

( A.I.S. CHEEMA, J.)

fmp/cr737.15