

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

CRIMINAL APPLICATION NO. 5232 OF 2015

The State of Maharashtra,
Through the Police Station,
Murud, Tq. & Dist. Latur.

...Applicant

versus

1. Shahaji Ratan Mayade,
Age: 27 years, Occ: Labour,
2. Ratan Ambadas Mayade,
Age: 65 years, Occ: Labour,
3. Kusumbai Ratan Mayade,
Age: 60 years, Occ: Household,
4. Anita Kashinath Kashid,
Age: 35 years, Occ: Household,

All R/o. Niwali,
Tq. & Dist. Latur.

...Respondents

.....
Mr. D.V. Tele, A.P.P. for applicant
Mr. R.L. Awale, Advocate for respondent Nos. 1 to 4
.....

CORAM : N.W. SAMBRE, J.

DATE : 22nd MARCH, 2016

ORAL ORDER :

This is an application by the State under Section 378(1)(b) of the Code of Criminal Procedure for grant of leave.

2. The respondents-accused were tried in Sessions Case

No. 108 of 2013 for an offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code and they are acquitted by the learned Sessions Judge by the judgment dated 16/06/2015. As such, present application.

3. Heard learned A.P.P. for the applicant and learned Counsel for the respondents.

4. The facts, as are necessary for deciding the present application, are as under :-

It is the case of prosecution that on 21/03/2013 to 22/03/2013 between 9-30 p.m. to 7-00 a.m. deceased Kashinath, brother of complainant PW-1 Pandurang hanged himself to a tree and as such, committed suicide. It is claimed that the accused persons, who are relatives of the complainant and deceased have abetted the crime, as they were harassing the deceased mentally and physically and were insulting him.

5. It is required to be noted that the complaint Exhibit-25 came to be lodged on 29/03/2013 alleging that accused Nos. 1 and 3 are father and mother of accused No. 4 and accused No. 2 is brother of accused No. 4. The deceased was husband of accused No. 4.

After marriage of deceased Kashinath with accused No. 4, they were residing together at Bhiwandi and agricultural land was purchased by the deceased from his income at Niwali i.e. at the native place of accused No. 4. It is then claimed that accused No. 4 started residing at her native place i.e. Niwali from village Bhiwandi and efforts on the part of deceased Kashinath to shift her remained unfruitful. It is claimed that as a consequence, deceased Kashinath, upon insistence of accused No. 4 started residing at Niwali. He was illtreated by all accused persons. It is claimed that because of illtreatment of the accused persons, deceased Kashinath was staying in rented house, however, even at that place, the accused persons used to issue threats and treated him cruelly. As a consequence, he committed suicide.

6. The complaint (Exhibit-26) lodged by PW-1 Pandurang, has resulted into registration of Crime No. 25 of 2013 for an offence punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code.

7. Initially, Accidental Death No. 11 of 2013 was registered, however upon inquiry, PW-6 Virendra Shelke pursuant to the complaint (Exhibit-25) registered offence in question, clothes (Article A & B) and rope (Article C) were seized vide spot panchnama at

Exhibit-27 and prepared inquest panchnama (Exhibit-18) of the dead body and as per letter (Exhibit-34) dead body was sent to P.H.C. Niwali for post mortem.

8. PW-7 ASI Anirudha Kakade investigated the crime in question. Map of the place of incident was drawn vide Exhibit-39 on the spot of incident and arrest panchnama on 04/04/2013. Exhibits-22 and 23 are 7/12 extract and 8-A extract of the land of deceased Kashinath.

9. The defence of the respondents-accused was that deceased Kashinath committed suicide as there was burden of loan, which he was unable to repay which was taken by him for the marriage of his daughter. He was also alcoholic.

10. Cause of death is due to asphyxia due to hanging was very much established.

11. It is then required to be noted that it has come on record that accused No. 4 and deceased Kashinath lived together for ten years. He purchased some agricultural land 10 years before the incident and started residing at Niwali with accused No. 4, his wife. It is then brought on record that deceased Kashinath was staying with

his wife and children at the house of PW-4 Shalubai for some time. He also stayed at the house of PW- 3 Ashok and PW-5 Kamalbai alongwith his children. These witnesses have turned hostile. In the cross examination, these witnesses have denied the story of prosecution. PW-2 Mahadeo, PW-1 Pandurang, PW-4 Shalubai, who are in blood relation with the deceased Kashinath, were examined in support of the prosecution case. It is then brought on record that deceased Kashinath had two daughters and a son. PW-4 and 1 stated about non providing of food and harassment meted to deceased Kashinath, however, there is hardly any material to infer that any act of the accused persons has abetted the alleged crime of suicide by deceased Kashinath. There is hardly any material on record so as to infer that respondents-accused were within knowledge that Kashinath committed suicide by their act. The evidence of above referred witnesses, in my opinion, is not sufficient to bring home the guilt of the accused.

12. In view of above, no case for interference is made out. Leave to appeal is refused. As such, application fails and stands rejected. Consequently, appeal stands dismissed.

[N.W. SAMBRE, J.]