

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

CRIMINAL APPLICATION NO. 5424 OF 2015

The State of Maharashtra

...Applicant

VERSUS

Ranjana Josef Gaikwad

...Respondent

Shri S.D.Ghayal, A.P.P. for applicant

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CORAM : INDIRA K.JAIN, J.

DATED : 12th APRIL, 2016

ORDER :

The State of Maharashtra has preferred this application under Section 378(1)(3) of the Code of Criminal Procedure seeking leave to appeal against the judgment and order, dated 8.6.2015, passed by the learned Additional Sessions Judge, Beed, in Sessions Case No. 63 of 2013 acquitting the sole accused of the offences punishable under Sections 498-A, 306, 504 of the Indian Penal Code.

2] Heard Shri S.D.Ghayal, learned A.P.P. for the applicant/State. Perused record.

3] Prosecution case, in brief, is as under.

- (i) Accused is the mother-in-law of deceased Supriya. Supriya was married to John Gaikwad son of the accused before one year of her death. The couple was blessed with a male child.

(ii) On 9.12.2012 there was a naming ceremony of the child in the house. Informant is brother of Supriya. Informant and his parents came to attend the naming ceremony. They could not gift gold ornament to the child, on which accused made an issue and raised quarrel. It is alleged that accused started harassing the deceased as her parents had not gifted gold ornaments to the child.

(iii) Incident occurred on 12.12.2012 at 11.00 a.m. Accused raised quarrel with Supriya. She abused her in filthy language. Being tired of illtreatment Supriya picked up a kerosene can, poured on her person and set herself on fire. She sustained 90 per cent burn injuries. She was shifted to City Care Hospital, Ahmednagar. PW 2-Anil Salve brother of Supriya lodged report. Crime was registered against the accused.

(iv) An intimation of admission of burn patient was also given to police station. PW 4 Police Head Constable Raghunath Rathod visited the hospital and recorded statement of Supriya. On 18.12.2012 she succumbed to burn injuries.

(v) PW 13-Trimbak Tandale conducted investigation and submitted charge sheet to the Court of Judicial Magistrate, First Class, Ashti, who in turn committed the case for trial to the Court of Sessions.

4] Charge came to be framed against the accused. She pleaded not guilty and claimed to be tried. Her defence was of denial and false implication.

5] Prosecution examined in all 13 witnesses in support of its case. With the assistance of the learned A.P.P. this court has gone through the evidence of Prosecution Witnesses. PW 2-Anil Salve, PW 4 Police Head Constable Rathod and PW 12-Dr. Santosh Shinde, who made an endorsement on dying declaration, are the star witnesses.

6] It is stated by PW 2-Anil Salve that whenever his sister Supriya was visiting their house she was disclosing that her mother-in-law illtreated her on domestic work. He also stated that mother-in-law of Supriya was raising quarrel and abusing her. He proved first information report. From the evidence of informant PW 2-Anil Salve it can be seen that no specific instances of alleged quarrel have been stated either in the first information report or in the evidence.

7] PW 4 Police Head Constable Rathod is on dying declaration. On receiving M.L.C. he visited the hospital and recorded statement of victim vide Exh.34. On perusal of dying declaration (Exh.34) it can be seen that victim stated before PW 4 Police Head Constable Rathod that on 12.12.2012 at 11.00 a.m. accused abused her in filthy language on trivial grounds. Accused used to instigate husband of victim against her and she committed suicide being harassed by her mother-in-law. No specific instances were stated by victim regarding the alleged abuses and quarrel.

8] Further PW 5-Dr. Daskhedkar admitted that if a person sustains more than 50 per cent burn injuries he is likely to go in shock and confused state of mind. In the instant case, on 13.12.2012 and 17.12.2012 PW 3 Executive Magistrate Ghugarkar and another Executive Magistrate Mr. Bhos visited the hospital to record statement of injured. On both the occasions she was not in a

fit state of mind to give her statement and so her statement could not be recorded.

9] In view of the above circumstances brought on record, dying declaration (Exh.34) does not inspire confidence. Trial Court has properly appreciated the evidence of PW 2-Anil Salve, PW 4 Police Head Constable Rathod and PW 5-Dr. Daskhedkar. The view taken by the Trial Court is a reasonable and possible view. Prosecution has no case on merits. Hence the following order.

ORDER

Criminal Application No. 5424 of 2015 stands dismissed.

[INDIRA K.JAIN, J.]

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