

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

APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 6126 OF 2014

The State of Maharashtra,
through Police Station Akole,
Tq. Akole, Dist. Ahmednagar

...Applicant
[Orig. Complainant]

VERSUS

- 1] Dr.Yogesh Dnyandeo Wakchaure,
age 32 years, occ.Doctor,
- 2] DnyandeoTukaramWakchaure,
age 63 years,Occ.Nil,
- 3] Sushila Dnyandeo Wakchaure,
age 59 years,occ. Household,
- 4] Savita Tryambak Kanawade,
age 35 years, occ.household,

Accused Nos.1 to 3 R/o Kalas,
Tq. Akole, Dist.Ahmednagar,

Accused No.4 R/o Nimgaon Paga,
Tq. Sangamner, Dist.Ahemdnagar

... Respondents
[Orig.Accused]

Smt.R.K.Ladda, A.P.P. for the applicant/State
Shri S.T.Shelke, advocate for respondent nos. 1 to 4

CORAM : INDIRA K. JAIN, J.
DATED : 4th February, 2016

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties. Perused record.

2] Here is an application for leave to appeal against the judgment and order of acquittal, passed by the learned Assistant Sessions Judge, Sangamner on 30.6.2014, in Sessions Case No. 31 of 2010, for the offences under Sections 498A, 306 r/w 34 of the Indian Penal Code.

3] The facts giving rise to the application may be stated in nutshell as under :-

(i) Manisha was daughter of complainant Janardhan Hase. She was married to respondent no.1 Dr.Yogesh on 19.2.2006.

(ii) After marriage, she started residing at her matrimonial house at village Kalas, Taluka Akole, District Ahmednagar. Initially for 1½ years she was treated well. It is alleged that thereafter respondent no.1 and his relatives i.e. respondent no.2 father, respondent no.3 mother and respondent no.4 sister

started illtreating Manisha on demand of Rs.Five Lacs to purchase medical instruments for the hospital.

(iii) It is further alleged that on 27.11.2009 Manisha disclosed on phone to her father that she was severely illtreated and he should visit her house immediately. Complainant and his wife PW 2 Hirabai visited the house of accused. They pacified them, but accused continued harassment to Manisha on non-fulfillment of demand.

(iv) On 12.12.2009 it was birth day of son of Manisha and respondent no.1. So on 8.12.2009 complainant and his wife had been to the house of accused. That time also Manisha told them that she was severely illtreated and they should make arrangement for money.

(v) On 9.12.2009 at around 5.00 a.m. accused no.2 Dnyandeo, father-in-law of Manisha, informed complainant on phone that Manisha was serious and he should come to village Kalas. Complainant and his wife rushed to the house of accused. They found Manisha dead due to hanging.

(vi) Report was lodged by father against the accused. On the basis of report, crime was registered. After investigation, charge sheet was submitted before the learned Judicial Magistrate, First Class, Akole, who in turn committed the case for trial to the Court of Sessions.

4] Charge of the alleged offence came to be explained to accused vide Exh.70. Accused pleaded not guilty and claimed to be tried.

5] To substantiate the guilt of accused, prosecution examined in all four witnesses – PW 1-Janardhan father, PW 2-Hirabai mother, PW 3-Chandrabhan brother of PW 2 Hirabai and PW 4-Somwanshi investigating officer.

6] Considering the evidence of prosecution witnesses, Trial Court came to the conclusion that prosecution could not prove the guilt of accused beyond reasonable doubt and acquitted the accused of the offences alleged. Being aggrieved, present application has been filed by the State of Maharashtra for leave to appeal.

7] The learned A.P.P. vehemently contended that a chit was found near the deceased, in which she implicated the accused. She submitted that chit was not properly considered by the Trial Court and the observations made in paragraph 34 of the judgment are totally incorrect. The learned A.P.P. further submits that there was sufficient oral evidence of father, mother and uncle of the deceased to show that she was illtreated on account of demand of

Rs. Five Lacs for the hospital. A grievance is made that evidence of witnesses has not been considered in proper perspective and in such a case leave to appeal be granted.

8] Per contra, learned counsel for respondents strenuously submitted that chit was not duly proved and it was not taken into consideration by the Trial Court. The learned counsel submits that there was no evidence of illtreatment at all against the accused. The alleged demand was not proved, and so Trial Court has rightly acquitted the accused.

9] With the assistance of the learned counsel for the parties, this court has gone through the evidence of all the four witnesses named above. It can be seen from the evidence of PW 1-Janardhan that in his examination-in-chief he stated about illtreatment to Manisha on demand of Rs. Five Lacs. In his cross-examination many important admissions could be elicited. Those admissions would clearly indicate that allegations regarding demand of money were per-se unacceptable. PW 1-Janardhan admitted in cross-examination that after marriage accused Dr.Yogesh had purchased a plot and constructed two storied building at village Kalas. He also purchased a car for himself and Manisha. PW 1-

Janardhan admits that Dr.Yogesh was having agricultural land in the same village and Manisha along with her husband used to cultivate the agricultural land. Accused no.2 father-in-law of Manisha was serving in A.D.C.C. Bank as an Officer. He also admitted that at the time of construction of his own house it was Dr.Yogesh who had sent his tractor for about 15 days for construction work of the house of his father-in-law. He also sent window frames to be used in the construction of house of PW 1-Janardhan. It is admitted by Janardhan that after marriage accused no.1 sent Manisha for further studies to Pune.

10] All the above facts would clearly indicate that Manisha was happy at her matrimonial house and she was never illtreated as alleged by her father.

11] The evidence of PW 2 Hirabai and PW 3 Chandrabhan is on the same line. In view of the material facts brought in the cross-examination, Trial Court found that no reliance can be placed on their testimonies.

12] Regarding chit learned A.P.P. submitted that chit seized clearly shows that Manisha had named the accused and accused

were responsible for her death. It is further submitted that chit was an important piece of evidence but it was ignored by the Trial Court.

13] The chit in question was seized by PW 4 Somwanshi Investigating Officer. This chit needs to be kept out of consideration for two reasons :-

(i) It was not duly proved. Note book of Manisha was seized and sent to hand writing expert for comparing with the hand writing in chit. None of the witnesses had positively stated that hand writing in the note book was of Manisha.

(ii) The hand writing expert could not give definite opinion in respect to the hand writing in chit. As the results of hand writing remained inconclusive chit was otherwise not helpful to the prosecution.

14] In the above premise, this Court finds that reasonings recorded by the Trial Court are in consonance with the evidence on record. No arguable case is made out. Application deserves to be dismissed. Hence, the following order.

ORDER

Criminal Application No. 6126 OF 2014 stands dismissed.

Rule is discharged.

[INDIRA K. JAIN, J.]

dbm/crap6126.14