

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.827 OF 2015

Shri Bhiku s/o Baburao Borkar
Age 50 years, Occ. Agril.
R/o Talnyachiwadi, Tq. Gevrai,
District Beed

... APPELLANT
(Original Complainant)

VERSUS

1. The State of Maharashtra
through Police Station Officer,
Police Station, Gevrai,
Tq. Gevrai, District Beed.
(The copy of respondent be
served on P.P., High Court,
Bench at Aurangabad)
2. Subhash Gulabrao Bhosale,
Age 48 years, Occu. Agriculture,
R/o Talnyachiwadi, Tq. Gevrai,
District Beed
3. Gulab Vithoba Bhosale,
Age 70 years, Occu. Agriculture
R/o Talnyachiwadi, Tq. Gevrai,
District Beed
4. Balu Subhash Bhosale,
Age 21 years, Occ. Agriculture
R/o Talnyachiwadi, Tq. Gevrai,
District Beed
5. Kamalbai Subhash Bhosale,
Age 38 years, Occu. Agriculture
R/o Talnyachiwadi, Tq. Gevrai,
District Beed

6. Urmila Subhash Bhosale,
Age 18 years, Occu. Agriculture
R/o Talnyachiwadi, Tq. Gevrai,
District Beed ... RESPONDENTS
(Nos.2 to 6 Orig. Accused)

.....
Shri A.B. Jagtap, Advocate holding for
Shri V.D. Sapkal, Advocate for appellant
Shri S.M. Ganachari, A.P.P. for respondent/State
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CORAM: A.I.S. CHEEMA, J.

DATED: 20th April, 2016.

ORAL ORDER :

1. Heard counsel for the appellant. This is appeal against acquittal. Considered copies of the evidence available and judgment of the trial Court, it appears that, there was love relationship between the victim Hemant and respondent No.6 (original accused no.5). The family members of the victim were aware of the said relationship. It appears from record that on the day of incident i.e. 6.4.2014, the family of the victim brought about his engagement with one Geeta and same day victim is said to have consumed poison. It appears that, the alleged incident of taking poison took place at about 11.00 p.m. of 6.4.2014 and the victim expired on 7.4.2014. According to the

prosecution, the victim had consumed poison because the accused persons were forcing him and insisting that he should get married with accused No.5 (present respondent No.6) and because of that, he consumed poison. There is evidence that P.W.1 to P.W.3 heard cries of the victim and when they went near him in the field, he stated that, accused persons were forcing him to get married with accused No.5 and had threatened that they would defame him and thus, he had consumed poison.

2. The learned counsel for the appellant vehemently submitted that, such evidence is available and the trial Court could not have presumed that because the family of the victim got him engaged, he consumed poison. There was evidence of oral dying declaration of victim from P.W.1 to P.W.3 and there were sufficient evidence to show that the accused brought about circumstances, because of which the victim had no other option but to commit suicide.

3. The trial Court has considered the evidence. It is a matter of fact that, in spite of knowledge of love relations between victim and accused No.5, the engagement of the victim was brought about. As regards the oral dying declaration, the

trial Court observed that, although it was claimed that the oral dying declaration was given to P.W.1 to P.W.3, it was not immediately brought to the notice of the police. Trial Court observed that on 7.4.2014 brother of P.W.1 informed the police regarding the death of the victim and while informing police regarding death of deceased stated that they do not have complaint against anybody. Two days later, on 9.4.2014, F.I.R. was lodged. The trial Court observed that the information Exh.35 does not disclose presence of P.W.2 and P.W.3 at the place of incident. The trial Court also found that not a single instance of harassment by the accused persons to the victim was brought on record. The trial Court declined to accept the version of prosecution regarding oral dying declaration. Trial Court reasoned out that there was nothing to show that the accused had such a clout that they could make the life difficult of the victim. It was also noted that, P.W.1 was member of Grampanchayat and Sabhapati of Panchayat Samiti. With such evidence, the trial Court recorded reasons that the offence of abetment to commit suicide was not made out.

4. Even if it was to be said that, the accused persons had met the victim on the day of incident, to impress upon him

to get married with accused No.5, it cannot be interpreted that they had any intention that the victim should commit suicide. The act attributed would only show that they were concerned that when there is a love relationship between the victim and the accused No.5, they should get married while the victim had got engaged to somebody else. Taking overall view of the evidence, I do not find that the reasonings recorded by the trial Court are not a possible view of the material available. There is no substance in this appeal against acquittal.

5. Admission of the appeal is declined. The appeal is dismissed.

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

fmp/cr1827.15