

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

CRIMINAL APPEAL NO. 937 OF 2015

Vasant s/o Shripadrao Kadam,
Age: 45 years, Occ: Agri.,
R/o. Akoli, Tq. Basmath,
Dist. Hingoli.

...Appellant

versus

1. The State of Maharashtra
Through Police Station Officer,
Parbhani (Rural) Police Station,
Dist. Parbhani.
2. Vasant s/o Uttamrao Deshmukh,
Age: 36 years, Occ: Agri.,
R/o. Nagapur, Tq. & Dist. Parbhani.
3. Bhagwanrao s/o Kishanrao Deshmukh,
Age: 70 years, Occ: Agri.,
R/o. Hatta, Tq. Basmath, Dist. Hingoli. ...Respondents

.....
Mr. Niteen V. Gaware, Advocate for appellant
Ms. R.P. Gour, A.P.P. for respondent No. 1
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CORAM : N.W. SAMBRE, J.

DATE : 10th MARCH, 2016

ORAL ORDER :

In Sessions Case No. 128 of 2014, learned Sessions Judge, Parbhani, acquitted respondent Nos. 2 and 3 herein for an offence punishable under Sections 498-A, 306 read with Section 34 of Indian Penal Code. As such, present appeal.

2. So as to bring home the guilt, PW-1 Ganesh Shankerrao

Gambhere, who is examined at Exhibit-25, has investigated the matter in detail and submitted the charge sheet. In support of prosecution case, the prosecution has examined PW-2 Dr. Tejesh Sambhajirao Tambole, Medical Officer, at Exhibit-28, who has performed post mortem, PW-3 Shivaji Raosaheb Deshmukh, panch on seizure panchnama, at Exhibit-30, PW-4 Vasant Shripad Kadam, cousin brother of deceased Pratibha, at Exhibit-33, PW-5 Bhaskar Prubhaji Kadam, uncle of deceased Pratibha, at Exhibit-34, and PW-6 B.R. Lad, Investigating Officer at Exhibit-35.

3. Initially, upon omplaint at Exhibit-26, inquest panchnama was drawn at Exhibit-19 and accidental death came to be recorded vide A.D. report No. 36 of 2014 at Exhibit-18.

4. After completion of investigation, the charge sheet in the matter came to be filed.

5. Learned Sessions Court, while dealing with the sessions trial, has noticed that the prosecution has brought on record trustworthy evidence, as such, ordered acquittal. Hence, present appeal.

6. Mr. Gaware, learned Counsel for the appellant would

urge that the evidence, as was placed on record, particularly in the background of requirements of ingredients under Sections 306 and 498-A of Indian Penal Code are required to be appreciated by this Court. According to him, the evidence of complainant namely Vasant Shripad Kadam, cousin brother of deceased Pratibha, speaks in voluminous terms about illegal demand from deceased Pratibha, when visited his place on the occasion of various festivals. He would then submit that death as was occurred, is in the doubtful circumstances and as such, the said fact is also lost sight by learned Sessions Court. He would then submit that the entire evidence needs to be appreciated afresh.

7. From the record, it depicts that the Doctor, who has conducted post mortem report, has forwarded viscera for chemical analysis straight way without following procedure of making report to that effect, which was preserved and as such, his evidence was found to be untrustworthy. Apart from above, perusal of evidence of complainant Vasant, who has deposed at Exhibit-33, does not repose confidence in the prosecution case, particularly having regard to the fact that he was unable to narrate the place of incident and necessary events, as were required to be proved and stated in the complaint.

8. The incident in question is claimed to have been based on the illegal demand of dowry for purchase of auto-rickshaw. The visit of deceased Pratibha on festival occasion, who was brought to the place of complainant by complainant for about last three times and his father for last four times was not specifically narrated, particularly event for which such visit was called for.

9. In my opinion, the evidence which was brought on record by the prosecution was rightly appreciated and discarded by learned Sessions Court.

10. In my opinion, the acquittal, as is ordered, appears to be just and proper. No case for interference is made out. The appeal, as such, stands rejected.

[N.W. SAMBRE, J.]