

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL APPEAL NO. 741 OF 1996**

- |    |                                       |                 |
|----|---------------------------------------|-----------------|
| 1. | Harishkumar Pradhanji Thakkar,        | )               |
|    | age 52 years, Occu: Business,         | )               |
|    | residing at Block No.2, Ground Floor, | )               |
|    | Sneha Building, Tambe Nagar, Sarojini | )               |
|    | Naidu Road, Mulund (West),            | )               |
|    | Bombay 400 080.                       | )               |
| 2. | Smt. Hirabai Pradhanji Thakkar,       | )               |
|    | Age 70 years, Occu: Household,        | )               |
|    | residing at Block No.2, Ground Floor, | )               |
|    | Sneha Building, Tambe Nagar, Sarojini | )               |
|    | Naidu Road, Mulund (West),            | )               |
|    | Bombay – 400 080.                     | ).. Appellants  |
|    |                                       | (Orig. Accused) |
|    | vs.                                   | (Orig. Accused) |

The State of Maharashtra ... Respondent

Mr. Bhupesh Gopal Singh, Advocate for the appellant.  
Mrs. A.A. Mane, APP, for the State.

**CORAM: SMT. SADHANA S.JADHAV, J.**  
**DATE : 21<sup>st</sup> March, 2016.**

**ORAL JUDGMENT :**

The appellants herein are original accused Nos. 1 and 2 in Sessions Case No.167 of 1987. The appellants herein are convicted for the offence punishable under Sections 498A and 306 of Indian Penal Code. The appellant No.1, who is original accused No.1, is sentenced to R.I. for

three years for the offence punishable under Section 306 of IPC and for a term of one and half years for the offence punishable under Section 498A of IPC. Accused No.2 is sentenced to simple imprisonment for three months and fine of Rs.30,000/-, in default to suffer S.I. for 3 months by the Addl. Sessions Judge, Sessions Court, Mumbai, vide judgment and order dated 30.8.1996. hence, this appeal.

2. Such of the facts necessary for the decision of this appeal, are as follows :-

Accused No.1 was married to Minakshi @ Meena in the month of May, 1984. Meena was the daughter of Shri Khatavbhai Gangji Jobanputra Thakkar, resident of Bhavnagar, Gujarat. That the spouses lived happily for a few days initially. In the month of July, 1984, Hemraj Thakkar enquired with the father of Meena at Bhavnagar as to whether Meena had returned to Bhavnagar. He answered in the negative. Thereafter her parents and relatives were searching for Meena. Her husband was also searching for her at various places. Three days thereafter, they received a phone call from Meena informing them that she is at the residence of one Dr. Subhash Patil at Chembur. The members of both

families assembled at the house of Dr. Patil. There was a discussion between them. Meena had made it clear to her parents in the house of Dr. Patil that she was not willing to join the accused No.1 in matrimonial house. That she had been to the house of Dr. Patil in search of domestic work. She had initially refused to give address of her parents, but after being persuaded by Dr. Patil, she had written a letter to her father. She was working as a maid-servant with Dr. Patil. At the time of leaving her matrimonial house, she had adorned herself with the golden ornaments which were in safe custody of Dr. Patil. Thereafter, her father had enquired with Meena. He had taken her to Bhavnagar along with him. Meena stayed at Bhavnagar for one year. Meena's father had persuaded the other relatives and it was decided that they could have a meeting. It was apparent that the accused No.1 was willing for restitution of conjugal relations. A meeting was arranged at the residence of one Mahendrabhai who is a distant relative of the accused. As a result of the talks taken place in the meeting, it was decided that Meena should join her husband. Accused No.1 had informed father of Meena that she should give in writing that she will not repeat such mistakes again. Meena had started staying in her matrimonial house. She conceived pregnancy. Then she was taken to her maternal house for delivery. Meena had given birth to a male child who

was named as Dhaval. After two months, accused No.1 and his relatives as well as accused No.2 had been to Bhavnagar to fetch the mother and child. They returned to Mulund. In the meanwhile, the father of Meena had come to Mumbai and was staying with Kanjibhai. Accused No.1 had called upon Meena's father Khatavbhai to their house. They were informed by the accused No.1 and his mother that Meena was not behaving properly. That she was not carrying out the domestic chores properly and not cooking food. Her father had confronted her with the said grievance which she denied in toto. Instead, she informed her father that she was being harassed and ill-treated by her husband and mother-in-law. On 31.8.1986, Khatavbhai received a phone call from the accused No.1. The accused No.1 had invited him for dinner. Meena had also talked to her father and had asked him to see her immediately. That at the residence of the accused No.1, Meena had shown certain bruises on her person to her father and informed him that she was being assaulted by her husband and mother-in-law. That her father Khatavbhai had talked to the accused. They had assured him that she would be treated properly. On 31.8.1986 at about 9 a.m., accused No.1 informed the relatives of Meena that she had sustained burn injuries. In fact, she was burnt in the early hours of 31.8.1986. That the relatives had assembled at the house of accused. The father of Meena

lodged a report at the police station on the basis of which Crime No.480 of 1986 was registered at Mulund Police Station against the accused for the offences punishable under Sections 306 and 498A of IPC. After completion of investigation, charge-sheet was filed. The case was registered as Sessions case No.167 of 1987. The prosecution examined as many as 9 witnesses to bring home the guilt of the accused.

3. PW-1 happens to be the complainant i.e. father of Meena Shri Khatavbhai Thakker. He has deposed before the Court in consonance with the first information report which is marked as Exhibit 21.

4. It is pertinent to note that he has candidly deposed before the Court that Meena had left the house without informing her in-laws. They were searching for her for about 3 days. On the third day, he received a phone from his daughter who informed him that she is at Chembur. She had given him the address which was the residential house of Dr. Patil. There Meena informed him that she was being harassed by her husband, mother-in-law and brother-in-law. She informed him that she was not interested in returning to her matrimonial house. She also informed him that she had been to the house of Patil in search of domestic work. PW-1

had informed the relatives that Meena was not interested in returning to her matrimonial abode. Dr. Patil had informed PW-1 that she had written a letter to her father at his behest. Dr. Patil had returned all the articles brought by Meena. She was taken to Bhavnagar by PW-1. He has further deposed before the Court that Meena had stayed at Bhavnagar for one year. Thereafter, accused No.1 had agreed to take back Meena on a condition that she would give in writing that she would not repeat her mistakes again. Her father enquired with her intermittently about her welfare and she had informed him that she is happy. He had taken Meena to his house at Bhavnagar for the purpose of delivery. Mahendrabhai, Kanjibhai and their wives, accused No.1 had been to Bhavnagar to fetch Meena to Mumbai. In the month of August 1986, PW-1 had returned to Mumbai as his mother who was residing with her brother Hemraj was ill. He used to visit the house of Meena intermittently. Accused No.1 and his mother had called upon PW-1 to their house and informed him that Meena was not behaving properly. He had confronted Meena with the same and she had given a separate story altogether. On 30.8.1986, Meena had called her father to meet her. At that time also, the accused No.1 had complained to PW-1 about the manner in which Meena was behaving and that she was not cooking food properly. Meena had complained that she was harassed and

beaten by accused Nos. 1 and 2. She had shown her bruises. On the very next day i.e. 31.8.1986, Meena had allegedly set herself ablaze and committed suicide. She had died instantly and there was no time to take her to the hospital.

In the cross-examination, PW-1 has admitted that when they were searching for Meena he had not made any enquiry with the accused. He was not aware of the reasons for Meena leaving her matrimonial home. He had made no complaint to the police. He had not contacted the accused even telephonically. He had not disclosed these facts to the police in his first information report. He has further admitted that he had learnt about Meena being subjected to harassment and ill-treatment for the first time at the residence of Dr. Patil. The said aspect also does not find place in the first information report. He has also admitted that he had enquired with Meena as to why she had been to the house of Dr. Patil to work as a servant instead of going to her uncle Hemraj in Mumbai. According to him, she had not assigned any reason due to fear. When he had been to attend the marriage of Satish at Mumbai, Kanjibhai had informed PW-1 that the accused were not interested in Meena and therefore, they would not give a written undertaking that they would not harass her. Kanjibhai had informed

him that since it was the fault of Meena they would not give any such undertaking. Meena had given 'Mafi-patra' which was signed by Meena herself, Kanjibhai and Popatbhai which is at Exhibit 22. he has admitted that there is omission in the first information report in respect of Meena being assaulted by her in-laws. That other witnesses happened to be the relatives of PW-1 and they have deposed in consonance with PW-1. However, all the material facts are admitted by them and hence it would not be necessary to discuss their substantive evidence.

5. PW-6 Mohana wife of Dr. Subhash Patil would be the relevant witness. She has deposed before the Court that on 27/7/1984, in the afternoon, she opened the door and found a girl with a suitcase in her hand. She was conversing in Hindi. She sought permission to enter into the house. Upon enquiry, she had informed PW-6 that she was looking for a job as a maid-servant. Her appearance indicated that she was a girl of tender age. From her appearance, it was abundantly clear that she hailed from a respectable family. She had informed PW-6 that she was an orphan. She further disclosed that she had an uncle and aunt who harassed her and, therefore, to rescue herself from their clutches, she was looking out for a job and she had come from Mulund. She further informed PW-6 that she

had eloped from her residence at Mulund. She boarded a train at Mulund and alighted at Kurla. Thereafter, she boarded another train and landed at Chembur. She entered the first building which was found attractive. That PW-6 resides in a building just across Chembur Railway Station. PW-6 has deposed before the Court that Meena was willing to work as a maid-servant and prayed that she should not be thrown out of the house. PW-6 asked her to wait till her husband arrived. In the evening when Dr. Patil returned home, he did not find it appropriate to enquire with the girl at night and therefore he enquired with her on the next day. Upon enquiry, she had disclosed to her that on the earlier day, she had spoken a lie. She disclosed to Dr. Patil that she had parents at Bhavnagar. She also disclosed that she was married and was residing with husband and in-laws at Mulund and that they used to harass her. The nature of harassment as disclosed by Meena was that she was made to carry out domestic chores for whole day and that they were unkind to her and taunted her. She had disclosed to him “दिनभर किटकिट करते रहते हैं ।” Dr. Patil was of the opinion that her husband should be informed about her. She restrained him from informing her husband as she apprehended that they would take her back to the matrimonial house. She refused to give address of her in-laws. Dr. Patil insisted to have the address of her parents. She was reluctant to give the

address as she apprehended that they would also take her back to her matrimonial house. Dr. Patil had then informed her that in such a situation, he would be constrained to inform her parents. It was only in those circumstances that she agreed to write a letter to her parents. Dr. Patil had supplied a letter-head which is marked at Exhibit 22. She wrote a letter in Gujarati. Dr. patil had posted that letter from Chembur. Meena had kept her ornaments in safe custody of PW-6. On the very next day, on her arrival she had told PW-6 that it was her birthday and therefore the Patil family celebrated her birthday. Meena had cooked food in their house. On the third day, 15-16 persons had come to the house of Dr. Patil. They informed PW-6 that they had come there in connection with Meena. Her husband and her father were also present. Meena had informed PW-6 that she had used the landline phone and informed her husband and told him about her whereabouts. There was discussion amongst both the families. PW-6 had returned the ornaments and other articles brought by Meena along with her. Thereafter, she was taken by her father to Bhavnagar. That on 1.9.1986, the police had enquired with PW-6 and at that time, she had learnt that Meena had committed suicide.

6. Upon perusal of the evidence adduced by the prosecution, it is clear that Meena was not interested in living in her matrimonial house. The

very fact that she had left her matrimonial house without informing anybody and had misled Patil family by informing them that she is an orphan would be sufficient to infer that she was not willing to stay in her matrimonial house. In fact, her paternal uncle was residing at Chember and in the eventuality that she was in some difficulty, she could have always called upon her paternal uncle instead of travelling far away to Chember and looking for a job as a house-maid. She had married to the accused No.1 in January 1984 and the incident is of 31.8.1986. In the intervening period, she was residing for one year at Bhavnagar and even at the time of delivery she was residing at Bhavnagar for more than two months. It appears that something must have happened in the intervening night of 30<sup>th</sup> and 31<sup>st</sup> August 1986 which prompted her to set herself ablaze.

7. Upon perusal of the evidence, it cannot be said that the appellants herein had abetted, facilitated or instigated Meena to commit suicide. However, the Court cannot be oblivious of the fact that a married girl within six months of her marriage had to leave the matrimonial home and was looking out for a job as a house-maid. There must have been some reason which prompted her to act in that particular fashion. One day before she committed suicide, she had shown bruises on her person to her father which again speaks volumes for itself.

8. It is pertinent to note that column No.17 of P.M. Notes shows that whole body was charred. She had sustained about 95 to 98% burns and, therefore, the bruises or marks of injury could not be noticed. However, PW-1 cannot be disbelieved on that count. It appears that she was rather meted out ill-treatment at the hands of the appellants. Hence, the appellants are liable for offence punishable under Section 498A of IPC. There is no cogent and convincing evidence on record to arrive at a conclusion that the accused appellants had abetted the commission of suicide and hence their conviction for offence punishable under Section 306 of IPC deserves to be quashed and set aside. Hence, the following order :-

### **ORDER**

- (i) The appeal is partly allowed.
- (ii) The conviction of the appellants for the offence punishable under Section 498A of IPC is maintained.
- (iii) They are sentenced to the period already undergone.
- (iv) The sentence of fine is maintained.
- (v) The appellants are acquitted of the offence punishable under Section 306 of IPC.

(vi) Their bail bonds stand cancelled.

Appeal is accordingly disposed of.

**(SMT.SADHANA S.JADHAV, J.)**