

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

BAIL APPLICATION NO.212 OF 2016

Mr.Rajesh Subarai Aacharya ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Ujjwal Gandhi Rishi Bhuta, Advocate for the Applicant.

Mr.S..H.Yadav, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 16th JUNE 2016.

P.C.

1. Applicant having been involved in the offence being Crime No.434 of 2015 registered by Malad Police Station for the offences punishable under Section 498(A), 306, 504, 506 of the Indian Penal Code, had sought bail.

2. It is the case of prosecution that the applicant on 02/09/2015 provided ill-treatment to complainant due to which she committed suicide by pouring kerosene on her person and set her on fire.

3. The learned counsel for the applicant invited my attention to the copies of charge sheet and has submitted that

from the same, there is nothing to establish that the applicant, prior to committing suicide by the victim, instigated her and abetted her to commit suicide.

4. The learned Additional Public Prosecutor had contended that there is substantial evidence on record involving the applicant in the form of two Dying Declarations and one oral Dying Declaration as well from other statements on record. It is thus, prayed that the application of the applicant be rejected.

5. It appears that incident took place in the night on 02/09/2015. Marriage of deceased Sharmila took place with the applicant in the year 2007. The offence came to be registered on the basis of Dying Declaration dated 02/09/2015. Sharmila while under medical treatment succumbed to burn injuries on 07/09/2015.

6. On perusal of first Dying Declaration recorded by Special Executive Magistrate deceased had involved applicant/her husband by stating that on the day of incident on 02/09/2015, she returned home at around at 4.00 p.m. as she was working as maid, when applicant was present in the house and was under the influence of liquor. It is further stated that the applicant was continuously doubting the character of the deceased and was saying her if she has any relation with some other person and in

the course of same transaction abused her by doubting her character. It is further stated in the Dying Declaration that at about 7.00 p.m. applicant was continuously ill-treating deceased on said count and thus she went on the loft in the room and poured kerosene on her person and set her on fire. She has further stated that on hearing her shouts neighbours arrived and had taken her for medical treatment to hospital at Kandivali.

7. Her subsequent Dying Declaration recorded on following day i.e. on 03/09/2015 i.e. by Nayaz Tahsildar. Both these Dying Declarations are corroborating each other on all the material aspect. From the Dying Declarations, it, thus, reveals that applicant was doubting the character of deceased and on that count was continuously providing ill-treatment to her, due to which deceased on 02/09/2015 committed suicide by setting her person on fire.

8. The contents of Dying Declarations are found corroborated with the statement of minor daughter Kirti of the applicant, who has specifically stated that there use to be frequent quarrels between her parents and applicant used to quarrel with deceased under the influence of liquor. Similarly, from the statement of neighbour, contents of Dying Declarations are found corroborated, when it is stated that immediately after the incident hearing shouts when she reached on the spot, applicant was

present and was under the influence of liquor, and she found deceased having sustained burn injuries to whom she took to hospital in a rickshaw when deceased informed her that she committed suicide by setting herself on fire due to continuous ill-treatment to her by her husband.

9. Having considering the above evidence on record, it is, therefore, found that there is *prima facie* evidence against the applicant. I thus find no substance in submissions on behalf of the applicant that immediately prior to deceased committing suicide, applicant has not abetted her. In that view of the matter, application is devoid of merits. Application stands rejected.

(P. N. DESHMUKH J.)