

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

REVISION APPLICATION NO.97 OF 2016

Gaurav Rajaram Jadhav .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.M.K.Kocharekar a/w. Mrs.Vrishali Raje,
Advocate, for the Applicant
Mrs.R.V.Newton, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 05.08.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant has
impugned the Judgment and Order dated 16.01.2016
passed by the learned Assistant Sessions Judge,
by which the Applicant's Application seeking
discharge in S.C.No.527 of 2014 was rejected.

3. Learned counsel for the Applicant urged that the Applicant has been falsely implicated in the said case and that a perusal of the entire charge-sheet shows that there is no iota of evidence to substantiate the charges leveled against the Applicant. He urged that the evidence on record, in particular, that of the Complainant i.e. father of the deceased contradicts several other statements, recorded by the prosecution. He submitted that no evidence, either under Section 306 or under Section 498A of the Indian Penal Code is disclosed as against the Applicant. He relied on the statement of certain witnesses, in particular, the statement of Rajendra Golesar, Neha Katyare, Pramila Jakate and other neighbours in support of his submission. He submitted that there is no material on record to substantiate the fact, that the Applicant used to bet on cricket matches and had sustained huge losses. He also submitted that there is no

material to show that the Applicant was in debt or that he had taken any loan from any person. According to the learned counsel, the deceased Amrapali was depressed after marriage and used to be alone at home. He also submitted that the deceased was earlier in a relationship with one Nilesh Deshpande and that was the cause for committing suicide. He also relied on several SMSs to show that the Applicant was a concerned husband and that there is nothing in any of the SMSs, which shows that the Applicant was harassing or ill-treating the deceased.

4. Per contra, learned APP opposed the Application. She submitted that there is ample material as against the Applicant to show his complicity in the said case. She relied on the statement of the Complainant, who is the father of the deceased, the mother of the deceased and other relatives. She submitted that the statements of the neighbours show, that the

Applicant was at home at the relevant time when the deceased committed suicide. According to the learned APP, the statements of the Complainant and the mother clearly show that the Applicant was mentally and physically harassing and ill-treating the deceased for money and she had disclosed to them about the said ill-treatment and harassment meted out to her. She submitted that considering the evidence on record, there is sufficient material to proceed as against the Applicant.

5. Perused the charge-sheet. The Complainant - Rajesh Golesar, is the father of the deceased Amrapali. He has stated that the deceased i.e. his daughter was married to the Applicant on 06.01.2013 and that at the relevant time, the Applicant was conducting his business at Kondhwa, District-Pune, at a place by the name "Slackers Cafe". He has stated that after marriage, his daughter started residing

initially at Shirur at the matrimonial home. He has stated that from February, 2013, the Applicant started harassing his daughter and she had complained to him, about the said harassment. He has further alleged that in June, 2013, the Applicant started residing at Vadgaon-Sheri with the deceased Amrapali. He has alleged that the Applicant was involved in betting activities in cricket matches and had lost all the money on cricket betting. He has alleged that the Applicant would blame his daughter for bring bad luck. According to the Complainant, the Applicant had sold/mortgaged her gold ornaments. The Complainant has set out in detail in his complaint the incidents narrated by his daughter Amrapali. He has alleged that on 06.08.2013, his daughter Amrapali called him and informed him, that the Applicant had taken a huge loan and was physically and mentally harassing her. She has also alleged that the Applicant was asking the

deceased to bring a sum of Rs.50,000/- from him. The statements of mother and other relatives of the deceased are similar. The statement of Neha, a friend of Amrapali which was relied upon by the learned counsel for the Applicant shows that the Applicant would continuously watch cricket matches, however, she has stated that she was not aware whether the Applicant was indulging in betting or not. She has stated that she was also not aware whether Amrapali's Gold ornaments were mortgaged/sold by the Applicant or not, as there was no discussion between them regarding the same. Reliance placed on this statement by the learned counsel for the Applicant is misplaced, as the said witness has no personal knowledge whether the Applicant was involved in betting or not and whether the Applicant had mortgaged Amrapali's ornaments or not. Admittedly, the Applicant was present at the house when the deceased committed suicide. The Applicant was married to the deceased on 06.01.2013 and the

incident took place on 07.08.2013 i.e. the date on which Amrapali committed suicide in her matrimonial home by hanging herself. The statement of Pramila, a mediator, who fixed the marriage of the Applicant with Amrapali cannot be said to favour the Applicant. The said witness has categorically stated that from June, 2013, she was not in touch with Amrapali or the Applicant and hence nothing much turns on her statement. Although, SMS's were relied upon by the learned counsel for the Applicant, it may be noted that merely because the SMS's do not show any animosity between the Applicant, does not mean that nothing as alleged has taken place. A perusal of the entire charge-sheet shows that there are sufficient grounds for proceeding as against the Applicant. The incident has taken place within seven years of marriage, of the Applicant with the deceased Amrapali. There is presumption under Section 113 which is attracted, which will have to be rebutted by the

Applicant in trial.

6. Considering the aforesaid, this is not a fit case to grant any relief. No infirmity can be found in the impugned order rejecting the Applicant's discharge Application. Accordingly, the Application stands rejected.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)