

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.300 OF 2016
IN
CRIMINAL APPEAL NO.170 OF 2016

Prakash Govindrao Patil

Applicant

versus

The State of Maharashtra

Respondent

Ms.Anjali Patil for Applicant.
Mrs.M.M.Deshmukh, APP, for State.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 25th August 2016

PC :

1. The Applicant was convicted and sentenced to suffer imprisonment for life in Sessions Case No.529 of 2014. The prosecution case is that on 20 April 2014, in the afternoon, at about 2.30, the Applicant poured kerosene on daughter-in-law Sonali Dnyaneshwar Patil and set her on fire. Sonali Patil suffered burn injuries to the extent of 90 to 95 percent. She was admitted in Nair Hospital, Mumbai. She expired on 28 April 2014.

2. During her admission in the hospital, three dying declarations of deceased Sonali Patil came to be recorded. They are at Exhibits-20, 63 and 88 respectively of the record. All these dying declarations

were recorded on 28 April 2014. In these dying declarations, deceased Sonali Patil stated that her father-in-law and mother-in-law poured kerosene on her person and set her on fire.

3. The police filed charge sheet against father-in-law. During the course of hearing it was submitted that mother-in-law of the deceased died while evidence of investigating officer was being recorded, as she was suffering from some serious ailment.

4. Learned counsel for the Applicant submitted that all the dying declarations are not reliable ones. They are not trustworthy for involving the accused in commission of crime. The deceased had sustained severe burn injuries to the extent of 90 to 100 percent. In such situation it was not possible for the deceased to make a statement, which according to the prosecution, was referred as dying declarations. She suffered burn injuries on various parts of her body including her hands. It was not possible for the prosecution witness to obtain her thumb impression. Learned counsel tried to highlight on the deficiencies which the defence pointed out in the prosecution evidence. Learned counsel submitted that material prosecution witnesses have not supported the case. Medical evidence does not support the prosecution case. In the facts of the case, learned counsel for the Applicant submitted that no motive was found with the father-in-law, who allegedly set on fire the deceased in the house. The father-in-law was acquitted of the offence under Section 498-A of IPC. Learned counsel had taken us through relevant paragraphs of evidence, medical evidence, dying declarations etc..

5. Learned APP submitted that a detailed scanning of evidence would be done at the time of final hearing of the appeal. The Trial Court after going through the entire evidence found the Applicant guilty of the offences charged against him. Three dying declarations are consistent in nature wherein the deceased had blamed her in-laws for continuously harassing her, quarreling with her, which ultimately led to heinous incident of setting her on fire. Learned APP submitted that in the evidence of PW-9 medical officer Dr.Ajitkumar Tiwari attached to Nair Hospital, it has come on record that the deceased was brought by Mahadev Patil at about 4.30 p.m. 'in trauma' ward. The witness was on duty. He recorded the history of patient. The deceased stated that she had a small scuffle with her in-laws and her in-laws poured kerosene on her person and set her on fire. This, according to the prosecution, was the first disclosure of the deceased of the incident which took place at her matrimonial home in presence of her in-laws.

6. We had called for original record and proceedings. We have perused original three dying declarations, medical evidence of PW-9 Dr.Tiwari and PW-12 Dr.Sandip Tayde. All these three dying declarations are consistent wherein the deceased has blamed her father-in-law and mother-in-law for pouring kerosene on her person and for setting her on fire. The deceased was under treatment for about eight days. She sustained superficial to deep burn injuries around 90 to 100 percent according to PW-12. On three dying declarations, the deceased had put her thumb impression. The evidence of PW-9 who recorded history of patient, bears importance

in the facts. The detailed analysis and scanning of the evidence would be done at the time of final hearing of the appeal. Taking into consideration facts and prosecution evidence, we are not inclined to release the Applicant on bail. The application is rejected. Record and Proceedings be sent back.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST