

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.809 OF 2016

IN

CRIMINAL APPEAL NO.445 OF 2016

SIDDHARTH SHAHAJI KAMBALE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Anil Singh i/b. Mr.Sagar Vaswani, Advocate for the Applicant.

Ms.A.A.Takalkar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 31st AUGUST 2016.

PC. :

1 This application is filed by applicant for suspension of substantive sentence and for grant of bail, who came to be convicted by learned Additional Sessions Judge, Kalyan, for the offence punishable under Section 306 of IPC and sentenced him to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.1,50,000/-, in default, to undergo simple imprisonment for 6 months. Applicant is further convicted for the offence punishable under Section 420 of IPC

and is sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.5,000/-, in default, to suffer simple imprisonment for 1 month. Both the sentences are directed to run concurrently.

2 Learned counsel for applicant had submitted that applicant was associated with some educational institution, where, prior to the incident, deceased Pradeep Lohar was employed as a teacher, whose services were continued till March 2005, when he on his own left the job, and on 14th July 2005 committed suicide by consuming poisonous substance. It is submitted that there is absolutely no relation between the date of incident on which deceased committed suicide and of his leaving job, which is in the month of March 2005. It is submitted that merely because applicant happens to be one of the trustees of the Educational Institution, he by itself cannot be construed to be in any manner instrumental for commission of suicide by deceased Pradeep.

3 It is also pointed out that, though it is the case of prosecution that applicant's institution at the time of providing job to deceased has taken in custody original documents with regard to educational qualification of deceased and had also charged amount ranging to the extent of Rs.1,50,000/- and did not return back the

same inspite of deceased leaving the job, this is contended to be not sufficient to establish involvement of applicant mainly for the reason that there is nothing to establish seizure of any such documents from the custody of applicant. At this stage, learned APP, though by referring to evidence of PW9 Investigating Officer Shri Baburao Jagtap has pointed out that after arrest of applicant, at his instance certain documents with regard to educational qualification of deceased came to be seized under Exhibit 36, it is admitted that neither these documents nor seizure panchnama with regard to memorandum statement of applicant as aforesaid, is placed on record. In that view of the matter, there is nothing to establish that any such documents were seized at the instance of applicant, and that applicant was refusing to handover such documents, to deceased after he left the job in March 2005.

4 Similarly, though according to postmortem notes it is stated that the principal cause of death of deceased was due to consumption of poison, as already stated earlier, no viscera report though viscera was preserved, is found to be collected during the course of investigation. In that view of the matter also, there is nothing to establish as to the cause of death of deceased.

5 Though learned APP to establish involvement of applicant has referred to evidence of PW4 Aruna Gavale and PW5 Kalavati Kalbhor and from their evidence has contended that applicant had committed similar act with these witnesses, who also happened to work in his institution, their evidence by itself is not sufficient to establish that immediately prior to deceased committing suicide on 14th July 2005, he was in any manner instigated or abetted by applicant for commission of suicide. Though from the evidence of wife of deceased it has come on record that 10 to 15 days prior to the incident, deceased had met applicant and was informed that the school is likely to get grant when salary will be paid and has further deposed that on the day of incident deceased had visited the school at about 1-1.30 p.m., on his returning back, she had inquired as to what had happened, upon which deceased informed that he has to do nothing and all his educational qualification documents should be burnt in smoke. It is material to note that from her evidence, it has further come on record that prior to this incident, deceased had vomited twice and on her inquiry had informed her that he had sustained acidity. However, within short time as he was not keeping well, then, neighbours were called and with their help, he was shifted to hospital, where she learnt that her husband had

consumed some poisonous substance. In that view of the matter, prima facie, it cannot be said that even for above reason, deceased had consumed poison, as from the evidence of wife of deceased, it has come on record that prior to his return back from school on the day of incident, he had vomited twice before above talk took place between them.

6 For the reasons as aforesaid, though it is the case of prosecution that deceased though was initially provided job in the educational institution of applicant, since his job was required to be terminated for want of requisite sanction, and deceased thus was facing financial crisis, was compelled to commit suicide as abetted by applicant, prima facie does not appear to be convincing.

7 Having considering facts as aforesaid, substantive sentence imposed upon applicant is liable to be suspended, pending appeal, directing applicant to be released on bail, as per order below :

- i) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- with one surety in like amount.

ii) While on bail, applicant shall mark his presence with Ambernath Police Station once in three months on the first day of each month, pending appeal.

(P. N. DESHMUKH, J.)