

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.942 OF 2016

IN

CRIMINAL APPEAL NO.519 OF 2016

SUNITA SUBHASH MEHTA

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.A.P.Mundargi, Senior Counsel, i/b. Shradha Sawant, Advocate for the Applicant.

Ms.V.S.Mhaispurkar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 24th AUGUST 2016.

P.C. :

1 This is an application for suspension of substantive sentence imposed upon applicant and for bail pending appeal. Heard learned counsel for both the sides. Perused the documents filed in support of the application. Applicant is found to be convicted for the offences punishable under Section 498A and 306 of the IPC, and is sentenced to suffer rigorous imprisonment for 3 years for the offence

punishable under Section 498A of the IPC, and is sentenced to suffer rigorous imprisonment for 7 years for the offence punishable under Section 306 of the IPC. Learned counsel for applicant has submitted that applicant is mother-in-law of deceased, who is acquitted of the offence punishable under Section 304B of IPC. With reference to offence punishable under section 498A IPC it is submitted that from the evidence of parents of deceased, ingredients of Section 498A of IPC cannot said to be made out, as according to their evidence, applicant used to provide ill-treatment to deceased saying that she was not properly cooking food or was not speaking English properly. It is further contended that marriage of deceased with co-accused / husband was solemnized in April 2009, while the incident of her committing suicide by hanging is of 28th September 2014. It is, therefore, submitted that considering the long time spent by deceased in the company of co-accused / husband and nature of allegations leveled against the applicant, which are in the form of applicant's taunting, observed as aforesaid, same does not appear to be so serious, which would abet deceased to commit suicide.

2 Learned APP has opposed the application on the ground that from the medical evidence on record, deceased is not found to

have committed suicide by hanging, but as per evidence on record, applicant appears to have caused her death.

3 Perused the documents and compilation of evidence on record. From the evidence of PW1 – father, it is found that within 2 to 3 months after the marriage of deceased, applicant was taunting her on small issues, i.e., she was not cooking properly or was not speaking in English properly, while rest of the evidence is with regard to involvement of co-accused / husband, who is alleged to have slapped the deceased and was asking deceased to do household work even when she was ill etc. With reference to the alleged taunts by applicant, on perusal of cross-examination of PW1, he appears to have admitted that his deceased daughter had graduated in English medium and had studied in Army Public School in English medium. Though he appears to have denied suggestion for want of knowledge, if deceased during her college days used to act as “compere” of events in her college, from this suggestion and evidence as aforesaid, it is noted that deceased having studied up to graduation in English medium and was student of Army Public School, must have sufficient knowledge of English to converse in the family. In that view of the matter, prima facie it is noted that evidence of PW1 with regard to alleged taunts by applicant

does not appear to be truthful. Similar is the evidence of PW3 – mother of deceased.

4 With reference to charge of abetment to commit suicide, from further evidence of PW1 it reveals that 4 to 5 days prior to deceased committing suicide, she had telephonically informed that she was fed up and was thrown out of the house in the night. On 28th September 2014 i.e. on the day of incident, co-accused / husband informed brother of deceased to take her back, else he would drive her out of the house, when PW2 spoke to her and found that she was crying. According to his further evidence, while Neha the deceased was speaking to her mother, co-accused / husband pulled the telephone and disconnected the line, and as such, has apprehended that co-accused / husband might have throttled her, as within short time thereafter, he telephoned the family members of deceased and informed about Neha committing suicide by hanging.

5 Similar is the evidence of PW2 -mother. However, the apprehension put forth by these witness does not stand to any reason as there is no substantive evidence to establish apprehension, as arose in the mind of parents of deceased, and secondly, as from the medical

evidence on record, which is in the form of evidence of PW7 Dr.Waghmare, who had conducted postmortem, has certified that case of deceased is of asphyxial death due to hanging. He has also stated of his finding ligature mark on the neck and also noted one punctured wound on the right clavicular area. With reference to the punctured wound, evidence of PW6 establishes that said wound was caused as deceased after the incident was administered medicine by injecting through neck as her pulse were not found and her blood pressure was dropping. In view of statement of Medical Officer as aforesaid, apprehension of father of deceased of applicant throttling her does not stand for any reason, more particularly, when the learned trial court on considering the evidence has held that death of deceased was suicidal.

6 Having considering facts as aforesaid, the sentence imposed upon applicant is liable to be suspended and released her on bail, as per order below :

- i) Applicant shall be released on bail on her executing PR.Bond in the sum of Rs.20,000/- with one surety in like amount.

(P. N. DESHMUKH, J.)