

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.1023 OF 2016

IN

CRIMINAL APPEAL NO.558 OF 2016

Satish Lalasaheb Bhosale & Ors.... **Applicants**

V/s.

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

.....

Mr. Abhijeet Desai i/b. Ms.Vaishali L. Maindad, Advocate for the Applicants.

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

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CORAM : P. N. DESHMUKH J.

DATED : 23rd AUGUST 2016.

P.C.

1 Heard learned counsel for both sides.

2 Applicant Nos.1,2 and 3 being husband and in-laws of deceased Sweta had filed this application for suspension of sentence and for release on bail .

3 Perused the documents filed with the application. Learned counsel for the applicant has contended that this Court has already released original accused No.4 sister-in-law, of deceased on bail on suspending her sentence by order dated 20/08/2016, and has submitted that in the entire FIR, there is only one allegation with regard to alleged monetary demand, that too after four years of

marriage between applicant No.1 and the deceased. It is further contended that in the later part of FIR, it is vaguely contended that the monetary demand to complainant, who is father of deceased was for providing job to co-accused No.4 Vaishali Pawar, however according to the applicants Vaishali was already in service much prior to incident and even prior to marriage between deceased and applicant No.1. It is, therefore, submitted that contents of FIR are false and prayed that pending appeal, application be allowed.

4 Learned Additional Public Prosecutor opposed the application contending that there is direct evidence against the applicants and from the evidence of complainant, who is father of deceased, as well as her brother, it is established that applicants were providing ill-treatment to deceased due to which she committed suicide.

5 It appears that applicant Nos.1,2 and 3 came to be convicted for the offence punishable under Sections 498-A, 304(B) and 306 of the Indian Penal Code read with Section 34 of the Indian Penal Code and are sentenced to suffer simple imprisonment for three years for the offence punishable under Section 498-A and for five years for the offence punishable under Section 306 of the Indian Penal Code and for seven years for the offence punishable under Section 304(B) of the Indian Penal Code. All the sentences are to run concurrently.

6 On perusal of FIR, it reveals that applicant No.1 married deceased Sweta on 15/07/2006. In the entire report, except for one sole incident dated 28/06/2010, which is almost after four years of marriage of deceased, there are no allegation of ill-treatment stated

therein, nor anything is on record with regards to police complaint, if any, lodged earlier with reference to ill-treatment, alleged to be provided by applicants to deceased on 28/06/2010. It appears to be the case of prosecution that deceased committed suicide by consuming poison on 18/09/2010, for alleged ill-treatment and monetary demands by applicants.

7 This Court while considering application of co-accused for suspension of sentence and for bail, had considered evidence of complainant-father of deceased as well as of her brother and has noted that there is no substance in the case of prosecution of alleged monetary demand for providing job to co-accused Vaishali or for making her job permanent, as from the evidence, it was found that Vaishali was already in service since 2005 i.e. even prior to marriage between applicant No.1 and deceased and from the evidence of Defence Witness No.1 *sarpanch* of village, it has come on record that co-accused Vaishali was in service even on the date of incident.

8 In that view of the matter, and since co-accused, in the same set of facts, is already held entitled for suspension of sentence and for release of bail, application is liable to be allowed as per order below:

- (i) Substantive sentence of imprisonment imposed upon applicants, as aforesaid, stands suspended.
- (ii) Applicants shall be released on bail on their furnishing personal bond in the sum of Rs.20,000/- each with one surety in the like amount.

- (iii) Applicant No.1 while on bail shall mark his attendance with Vadgaon Nimbalkar Police Station, District Pune, once in three months on first day of each month, pending trial.

(P. N. DESHMUKH J.)