

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1228 OF 2016

IN

CRIMINAL APPEAL NO.653 OF 2016

DEEPAK AGATRAO DESHMUKH AND ORS.)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.M.K.Dubey i/b. Veenu M. Dubey, Advocate for the Applicants.

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

CORAM : A. M. BADAR, J.

DATE : 29th NOVEMBER 2016.

P.C. :

1 This is an application for suspension of sentence and for releasing the applicants / accused on bail during the pendency of appeal filed by the applicants, challenging the judgment and order dated 17th September 2016 passed by the learned Judge of the City Civil and Sessions Court, Greater Mumbai, in Sessions Case No.617 of 2014.

2 The applicant / appellant no.1 Deepak is convicted for the offence punishable under Section 306 of the IPC for which he is sentenced to suffer rigorous imprisonment for 5 years. He is also found to be guilty for the offence punishable under Section 498A of the IPC and is sentenced to suffer rigorous imprisonment for 1 year.

 The applicant / appellant no.2 Akshay is found to be guilty of the offences punishable under Sections 306 and 498A of the IPC and he is also sentenced to suffer rigorous imprisonment for 3 years and 1 year respectively for those offences.

 The applicants / accused nos.3 and 4 are sentenced to suffer rigorous imprisonment for 1 year for the offence punishable under Section 498A of the IPC and they are acquitted of the offence punishable under Section 306 of the IPC.

3 Heard the learned counsel appearing for the applicants / accused as well as the learned APP. The learned APP opposed the application by contending that there is consistent evidence

against the applicants / accused which shows that by subjecting deceased Pratibha to cruelty, they abetted commission of her suicide, within 1 year from her marriage with the applicant Deepak.

4 I have perused the evidence of PW1 Pandurang (father), PW2 Sangeeta (mother) and PW3 Sareeka (sister) of deceased Pratibha. She died suicidal death on 23rd February 2014 at the house of the applicants. Prima facie, it is seen that at the time of first Diwali, deceased Pratibha had reported to her relatives that she is fine. At this stage, it is not appropriate to advert to the merits of the prosecution case. Suffice to state that short sentence is awarded to the applicants, who were already on bail during the pendency of the appeal. The appeal will take its own time for hearing. Approach of the court in suspending the sentence needs to be liberal when applicants are on bail and when they had not misused their liberty during pendency of the appeal.

5 In this view of the matter, the following order:

- i) The application is allowed.
- ii) The substantive sentence of imprisonment awarded by the learned Judge of the City Civil and Sessions Court against the applicants / appellants is suspended and they are released on same bail with fresh bonds.

(A. M. BADAR, J.)