

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CR.APPLN.NO.2055 OF 2016

CRIMINAL APPLICATION NO. 2055 OF 2016

The State of Maharashtra,
Through the Officer In Charge of
Mhasawad Police Station.

**...APPLICANT
(Original Complainant)**

VERSUS

1. Dashrath Dangal Pawara,
Age 24 years.
2. Taibai w/o Dangal Pawara,
Age 45 years,

R/o.Bhongra,
tq.Shahada,
Dist.Nandurbar.

**...RESPONDENTS
(Ori.Accused)**

...
APP for Applicant State: Shri R.B.Bagul
Shri Shah J.R., Advocate for R.nos. 1 & 2.

...
CORAM : P.R. BORA, J.
Dated: September 25, 2017

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PER COURT :-

1. The State has filed the present application seeking leave to appeal against the judgment dated 2nd of January, 2016, passed by the Additional Sessions Judge, Shahada, in Sessions Case No.5/2012.

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2. The respondents herein were prosecuted in the aforesaid Sessions Case for the offenses punishable under Section 498-A, 306 read with Section 34 of IPC. The learned Sessions Judge has acquitted the respondents, who are hereinafter referred to as the accused, from all the charges levelled against them.

3. It was the case of the prosecution that the deceased committed suicide by consuming poison, being fed up with the ill-treatment to her, at the hands of the accused persons. It was alleged that the accused persons were humiliating the deceased on the count of her not looking fair. The learned A.P.P. submitted that the Sessions Court has ignored the crucial aspects which were brought on record by the prosecution evidence that there was continuous taunting to the deceased from her mother-in-law and that has resulted in making the deceased to commit suicide. Learned A.P.P. submitted that the prosecution has brought sufficient evidence on record so as to hold the accused persons guilty for an offense punishable under Section 306 of IPC. Learned A.P.P., therefore, prayed for granting leave to appeal and to hear the appeal on merits.

4. Shri J.R.Shah, learned Counsel appearing for the respondents, opposed the submissions made by the learned A.P.P. Taking me through the impugned judgment, learned Counsel submitted that the prosecution had utterly failed in proving the

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guilt of the accused and the learned Sessions Judge has, therefore, rightly acquitted all the accused of the charges levelled against them. Learned Counsel submitted that, as has come on record, the deceased had married with respondent no.1 at her own wish. Learned Counsel submitted that it was a love marriage between the deceased and respondent no.1. Learned Counsel further submitted that ample evidence has come on record suggesting that, as per the tradition prevailing amongst the community of accused persons, known as Zagada, respondent no.1 and deceased had mutually decided to marry with each other and subsequently the marriage was ratified by the parents of the deceased. Learned Counsel submitted that the deceased suffered suicidal death at her parental house. Learned Counsel further submitted that nothing has come on record so as to suggest that in proximity of time any such ill-treatment, as alleged, was meted out to the deceased by the accused. Learned Counsel further submitted that the observations made by the trial Court are based on record, and the prosecution has failed in making out any case that there was any ill-treatment or harassment to the deceased by the accused persons. Learned Counsel submitted that, on the contrary, it was the defense raised by the accused persons that the parents of the deceased were insisting her to take divorce from respondent no.1. Learned Counsel brought to my notice that the sister of the deceased, namely, Sunita (PW 2) has admitted in her cross examination that her father had been to Talwadi for requesting his

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brothers for insisting Bharatibai i.e. the deceased to take divorce from respondent no.1.

5. After having considered the evidence on record, it does not appear to me that the learned Sessions Court has committed any error in acquitting the accused of the charges levelled against them. The learned Sessions Court has passed a well reasoned order and no such material is brought to my notice even in appeal so as to take any contrary view. I am, therefore, not inclined to allow the application. Hence, the following order:

ORDER

1. Criminal Application (No.2055/2016) is rejected.

(P.R. BORA, J.)

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