

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CRI.APPLN.NO.2157 OF 2016

10 CRIMINAL APPLICATION NO. 2157 OF 2016

The State of Maharashtra,
Through the Police Station Officer,
Ghargaon Police Station,
Tq. Sangamner, Dist. Ahmednagar.

...APPLICANT

(Complaint was lodged by
Balasaheb s/o Nivruti Hande)

VERSUS

1. Sitaram s/o Anantha Dongare,
Aged 50 years, Occ: Agriculture,
R/o Pemrewadi-Bhojdari,
Tq. Sangamner, Dist. Ahmednagar.
2. Jaysing s/o Sitaram Dongare,
Aged 25 years, Occ: Agriculture,
R/o Pemrewadi-Bhojdari,
Tq. Sangamner, Dist. Ahmednagar.

**...RESPONDENTS
(ORIG.ACCUSED)**

...
APP for Applicant : Mr. R.B.Bagul
Mr.Kanawade Ajay T., Advocate for R.nos. 1 & 2.

...
CORAM : P.R. BORA, J.
Dated: September 04, 2017

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PER COURT :-

1. Heard learned A.P.P. and the learned Counsel appearing
for the respondents i.e. original accused.

agp/-

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2. The respondents were tried by the Assistant Sessions Judge at Sangamner in Sessions Case No.75/2014 for the offenses punishable under Sections 498(A), 306, 323, 504 read with Section 34 of the Indian Penal Code. The learned Assistant Sessions Judge has acquitted the respondents of all the charges levelled against them. The State has, therefore, filed the present application seeking leave to prefer appeal.

3. Shri Bagul, learned A.P.P., inviting my attention to the discussion made by the learned Assistant Sessions Judge in paragraph No.30 and onwards, submitted that, for unsound reasons the Assistant Sessions Judge has disbelieved the prosecution evidence. Learned A.P.P. submitted that the evidence of PW 4 Nanabhau Godase was duly corroborated by evidence of PW 1 Balasaheb Hande and both have stated about illegal monetary demands from the accused. Learned A.P.P. submitted that the prosecution has brought on record sufficient evidence proving complicity of both the accused in causing ill-treatment to deceased Manda which ultimately drove her to commit suicide. Learned A.P.P. therefore, prayed for allowing the present application and to hear the appeal on merits.

4. Learned Counsel appearing for the respondents opposed the submissions made on behalf of learned A.P.P. Learned Counsel submitted that the marriage of deceased Manda

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was performed with accused no.1 prior to more than 23 years. Learned Counsel further submitted that earlier also an attempt was made by deceased Manda to commit suicide by eating poisonous substance. Learned Counsel further submitted that a compromise had been arrived at between deceased Manda and respondent no.1 in relation to earlier dispute and, thereafter, deceased Manda had been to respondent no.1 for cohabitation in the year 1994 and had, thereafter, led smooth marital life. Learned Counsel submitted that the prosecution has failed in bringing on record any cogent and sufficient evidence to prove that there was demand; much less, of Rs.10,000/- from the side of the accused. Learned Counsel submitted that the Assistant Sessions Judge has rightly observed that the witnesses which, according to prosecution, are material witnesses, namely, PW 1 Balasaheb Hande and PW 4 Nanabhau Godase have not corroborated the material particulars and there are contradictions in the testimonies of both these witnesses. Learned Counsel submitted that the learned trial Court has rightly acquitted the accused and no case is made out even for granting leave to the applicant State for filing an appeal.

5. I have carefully considered the submissions advanced by the learned A.P.P. and the learned Counsel appearing for the respondents. I have also perused the impugned judgment. As has been submitted by the learned A.P.P., PW No.4 Nanabhau Godase and PW 1 Balasaheb Hande were the material witnesses.

agp/-

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Their evidence has been analyzed by the learned Assistant Sessions Judge in paragraph no.26 and onwards.

6. After having considered the discussion made by the learned Assistant Sessions Judge, it does not appear to me that the learned Assistant Sessions Judge has committed any error in acquitting the accused. As has been observed by the learned Assistant Sessions Judge, the material witnesses have not corroborated the evidence of each other on the point of cruelty and the demand allegedly made by respondent no.1. Having considered the contradictions which have been pointed out by the learned Assistant Sessions Judge, no fault can be found in the conclusion recorded by the learned Assistant Sessions Judge. It does not appear to me that the learned Assistant Sessions Judge has committed any error in recording the finding as aforesaid. In the circumstances, I am not inclined to allow the present application. Hence, the following order:

ORDER

1. The Criminal Application (No.2157/2016) is rejected.

(P.R. BORA, J.)

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agp/-