

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**Criminal Appeal No. 118 of 2001
With
Criminal Application No.4424 of 2014**

- 1) Gangadhar s/o Tanaji Bhong,
Age 43 years,
Occupation : Agriculture,
R/o Kaudgaon, Taluka Basmath,
District Parbhani.
 - 2) Shantabai w/o Gangadhar Bhong.
Age 43 years,
Occupation : Household,
R/o As above.
- .. Appellants.**

Versus

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

Shri. R.N. Dhorde, Senior Advocate, for appellants.

Shri. R.V. Dasalkar Additional Public Prosecutor , for
respondent.

With

**Criminal Appeal No. 156 of 2001
With
Criminal Application No.4425 of 2014**

Dnyaneshwar s/o Gangadhar Bhong,
Age 26 years,
Occupation : Agriculture,

R/o Kaudgaon, Taluka Basmath,
District Parbhani..

.. Appellant.

Versus

The State of Maharashtra.

.. Respondent.

Shri. R.N. Dhorde, Senior Advocate, for appellant.

Shri. R.V. Dasalkar Additional Public Prosecutor , for
respondent.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date : 4 AUGUST 2017

JUDGMENT (Per T.V. Nalawade, J.) :

1) Both the appeals are filed against the judgment and order of Sessions Case No.116/2000 which was pending in the Court of Additional Sessions Judge Parbhani. The appellant Dnyaneshwar of Appeal No.156/2001 is convicted and sentenced for the offence punishable under section 302 and also for offence punishable under section 498-A read with 34 of the Indian Penal Code. Though there was charge for offence under section 201 of the Indian Penal Code, he is acquitted of

that charge. The appellants of other appeal viz. Criminal Appeal No.118/2001 are the parents of Dnyaneshwar and they are convicted and sentenced for the offence punishable under section 498A read with 34 of the Indian Penal Code. Both the sides are heard. The applications are filed by original complainant for permission to compound offence punishable under section 498-A of I.P.C.

2) In short, facts leading to the institution of the two appeals can be stated as follows :-

3) The deceased Godavari was sister of the first informant Balaji Desai. Parents of Godavari hail from village Chudawa, Tahsil Purna, District Parbhani. It is the case of the prosecution that for about 4 years of the marriage no ill-treatment given to the deceased by husband and his parents but after four years they started harassing the deceased by asking her to bring Rs.50,000/- from her parents. The husband, Dnyaneshwar wanted to purchase motor cycle. The appellants hail from village Kaudgaon.

4) The deceased used to disclose that husband and his parents and the sister of the husband were harassing her as the demand was not met with and she had disclosed that they were even giving beating to her and starving her. The first informant had given promise to see that the amount will be given on the occasion of Diwali festival which preceded the incident. The deceased had again disclosed that there was ill-treatment to her as the demand of Rs.50,000/- was not met with. She also disclosed that she had suspicion that husband had illicit relation with one woman. The deceased was sent to parents' house for delivery and after delivery when the deceased was reached to the matrimonial house by the first informant, the husband and his parents inquired as to why the demand was not met with. Then they gave threats that they would continue to give ill-treatment to Godavari. After that incident also on many occasions the deceased had disclosed that the husband was giving ill-treatment to her and he had extra marital affair.

5) On 25-4-2000 at 8.00 p.m. Gangadhar Bhong, father-in-law of the deceased visited the house of the first

informant and informed that due to fever, illness, Godavari had died. After that, the first informant went to the matrimonial house of Godavari with many persons of his village. The first informant and the persons from his village noticed that there was ligature mark surrounding the neck of the dead body of Godavari indicating that somebody had strangled her. The dead body was found kept in sitting position in a room of the ground floor of the building. When the first informant and others inquired with her husband and his relatives about the ligature mark appearing on the neck, the husband and his parents admitted that they had finished Godavari by strangulation. In the mean time, brother of Godavari gave AD report to the police under section 174 Cr.P.C. in Hatta police station.

6) Police of Hatta Police Station visited the house of the accused from Kaudgaon and they prepared inquest panchanama. The dead body was referred for post mortem examination. The spot panchanama was prepared in presence of panch witnesses and the spot was shown by accused No.1. A rope prepared from bag of fertilizer was

found hanging above the cot which was present in the bed room of Dnyaneshwar. Pieces of bangles of the deceased were found there. A map of the room showing the location of the cot and the place where rope was hanging was prepared and it was annexed with the spot panchanama. The doctor who conducted post mortem examination gave opinion that, it was a case of acute respiratory arrest due to asphyxia due to strangulation. Ligature mark was found encircling the neck. There was fracture of hyoid bone and fracture of cervical vertebra Nos.1 and 2 (C-1 and C-2). Post mortem was conducted on the dead body on 26-4-2000 between 1.45 p.m. and 2.45 p.m.

7) Balaji (PW 3), brother of the deceased, gave report against the accused on 26-4-2000 and Crime at CR No.53/2000 came to be registered for the aforesaid offences at 19.30 hours. The accused came to be arrested. During course of investigation the husband, Dnyaneshwar gave statement to police on 28-4-2000 under section 27 of the Evidence Act and on that basis one wire of electric iron was recovered from Almira of Dnyaneshwar and it came to be seized under panchanama. Statements of the

relatives of the deceased on parents' side and of the neighbours came to be recorded and after completion of investigation charge sheet came to be filed against the appellants and also against the sister of Dnyaneshwar for the aforesaid offences. After committal of the case charge was framed for the aforesaid offences. All the accused pleaded not guilty. The prosecution examined in all 9 witnesses to prove the offences. The accused took defence of total denial. The trial Court has believed the medical evidence, opinion given by the doctor and as the incident took place in the bed room of Dnyaneshwar he is held guilty of the offence of murder. Dnyaneshwar and his parents are convicted for the offence punishable under section 498-A read with 34 IPC also. Sister of Dnyaneshwar came to be acquitted as she was married and she was living in her matrimonial house.

8) The learned Senior Counsel for the appellant husband submitted that the medical evidence given by doctor who conducted post mortem examination has created other probability like death took place due to hanging and due to existence of such probability the trial

Court ought not to have convicted the husband for offence of murder. The learned Senior Counsel took this Court through the evidence given by the close relatives of the deceased on parents' side including Balaji and submitted that the case of demand of Rs.50,000/- for purchasing motor cycle for Dnyaneshwar was not probable in view of the evidence on record. He submitted that the circumstance that parents were having separate room is not considered by the trial Court and there was no question of convicting the parents of Dnyaneshwar even for offence punishable under section 498-A of Indian Penal Code. The learned Senior Counsel submitted that material witnesses, neighbours of the matrimonial house who had opportunity to see the dead body in hanging condition are not examined and due to that adverse inference needs to be drawn against the prosecution. On the other hand, the learned Additional Public Prosecutor submitted that the incident took place in the bedroom of Dnyaneshwar and the circumstances mentioned in the spot panchanama and the medical evidence are sufficient to infer that false show was created by the accused persons of hanging. Learned APP submitted that only

Dnyaneshwar had the opportunity to commit the murder and not much can be made out due to circumstance like absence of mark of resistance by the deceased who had delivered a child few months back. Learned APP submitted that Dnyaneshwar, youngster aged about 26 years committed the murder and the possibility that the deceased could not have thought of such act from Dnyaneshwar needs to be kept in mind.

9) The prosecution examined Vyankatesh, Medical Officer (PW 2) who conducted post mortem examination. He has deposed that rigor mortis was absent in whole body and there was no decomposition. Post mortem lividity was present over the back, below rib region on both sides, buttocks, thighs though it was less prominent over legs, P.M. lividity was present on some lower part of abdomen and genital area also. It needs to be kept in mind that the dead body was shifted from the house of the accused on 26-4-2000 though the incident took place on 25-4-2000 in the matrimonial house. There was semi digested food material and fluid about 100 – 150 cc in the stomach.

10) The evidence of the doctor Vyankatesh (PW 2) shows that he noticed ligature mark encircling neck and there was fracture of hyoid bone. The evidence also shows that there was fracture of cervical vertebra first and second. These injuries were ante mortem in nature and on that basis he gave opinion and cause of death as acute cardio respiratory arrest due to asphyxia due to strangulation. The post mortem report at Exhibit 19 is duly proved in the evidence of this witness.

11) Article 11, ligature material, wire of electric iron which is shown to be recovered from accused No.1, husband, was shown to the doctor and the doctor has given opinion that ligature marks found on the neck can be caused by such article. Specific opinion on that was sought by the investigating agency and the opinion given by the doctor is proved as Exhibit 20. Specific suggestion was given to the doctor by defence that aforesaid injuries can be caused due to hanging but this suggestion is denied.

12) Learned Senior Counsel took this Court through the extensive cross examination of Vyankatesh (PW 2) made by the defence counsel. During his cross examination the photographs of ligature marks were confronted to him. From the photographs it was suggested to him that the ligature mark was not completing the circle in photograph. He admitted that but the fact remains that as per his evidence, when he examined the dead body he found that the ligature mark was completing the circle. His attention was drawn to some observations made by expert like J.N. Wilson in a book to suggest that such injury can be caused due to hanging. The evidence given by the doctor shows that he was very certain on his opinion that the injury found on the neck can be caused only due to strangulation and that include fracture of C-1 and C-2. His evidence shows that there was no mark of knot of ligature on the neck. During his cross-examination it is brought on the record that in the post mortem report he has not noted any injury to the muscle of the neck. He has admitted fracture of larynx and trachea further confirm strangulation. Some hypothetical suggestions were given to the doctor that

when there is strangulation, injuries are caused on the face and other parts of body. It is only probability but the medical officer is not expected to say something on the basis of hypothetical questions. Facts of each and every criminal case are different as the victim is different and the offender is also different. Offering of resistance depends on many circumstances which include opportunity also. In the evidence of the doctor it is suggested to him that he has not mentioned rupture of carotid artery which is a normal feature of strangulation. In standard post mortem report there is column of large vessel and it is suggested that under that head he was expected to mention artery also. Though there are some answers from the doctor showing that he had not completely filled the form to note each and every aspect of the observations made by him, his evidence shows that he was very much sure about the cause of death which is quoted above. When there is medical evidence, which is opinion evidence on the cause of death, it is up to the Court to decide as to whether the opinion needs to be accepted or not to be accepted. The trial Court has accepted this opinion. Further, there are other

surrounding circumstances which need to be considered while deciding as to whether the opinion needs to be accepted or not.

13) The defence has not disputed that the incident took place in the room which was in the house of accused and her husband was using it as bedroom. Nathu (PW 4), a panch witness on the spot panchanama, has given evidence for proving the document of spot panchanama (Exhibit 27). He has deposed that accused Dnyaneshwar had shown the place. He has given evidence on the articles found in the room. The panchanama at Exhibit 27 shows that the location of the articles is shown in the map which is annexed with the panchanama. The room was situated on the extreme western side of the building and it was on the first floor. The size of the room was 16.5 ft x 8.5 feet. Roof the room was at the height of 9 feet. The room had two window towards eastern side and the entrance door of the room was opening towards the terrace situated on southern side. There was one more window in the western wall of the room. The bed, cot was found on extreme north side. Above the bed, there was a

fan fixed in the roof and there was one hook fixed in the roof of 3 inches length above bed. When panchanama was prepared, one rope prepared by using polythene bag of fertilizer was hanging at the hook and the length of the rope was 35 inches. The lower portion of the rope was found cut at two places. The distance between bedding kept on the cot and the roof, ceiling was 8 feet. There was one small box having 11 inches height by the side of the cot. Pieces of green bangles and red bangles were lying in the room near the cot. By the side of the cot, one piece of rope of aforesaid substance having length of 3 inches was lying. One kitchen cutter, (चिञ्च) was found to be kept in one widow situated on western side. One saree was lying on the cot along with blouse. These articles were taken over under the panchanama.

14) In the inquest panchanama at Exhibit 24 the height of the deceased was recorded as 5 feet. The evidence of spot panchanama shows that from the bed kept on the cot the hook was at a distance of around 8 feet. There was no stool or chair in the room which could have been used for reaching upto the hook where the rope

was found to be tied. Further, the photographs of the room show that one knot was on upper side and below that there were two parts of the rope. These photographs are proved in the evidence of Abdul Nabi (PW 8). Cross examination of the photographer shows that the evidence is not seriously disputed.

15) The aforesaid circumstances appearing in the spot panchanama, inquest panchanama and the photographs do not explain as to how without the help of anybody or without having article like stool or chair, the deceased could have reached the hook for tying the rope there. Considering the length of the piece of the rope lying on the floor and the aforesaid circumstances it becomes difficult to believe that the deceased had prepared circle of the rope having knot after tying the rope on the roof and then she had put her neck into that circle. If the length of the rope which was 35 inches from the hook is considered, virtually no distance would have been left between the bed kept on the cot and the feet of the deceased considering her height of 5 feet. Unfortunately police did not send these pieces of rope and

also the ligature material recovered at the instance of the husband on the basis of statement given under section 27 of the Evidence Act to C.A. office to find out as to which ligature material was actually used. It can be said that the investigation was not made competently but that circumstance cannot go to the root of the matter and it is duty of the Court to find out the truth on the basis of whatever evidence is made available.

16) Defence has suggested many things to the witnesses and the learned Senior Counsel also argued on the basis of some suggestions given to the investigating officer and submitted that the incident had taken place prior to 4.30 p.m. on that day and in the statements given under section 313 of the Cr.P.C. the accused Nos.1 and 2 have contended that they were not present in the house at the relevant time and only accused No.3, mother of the husband was present in the house at the relevant time. The evidence and the record show that the accused did not take steps to inform the police about this unnatural death and AD was registered on the basis of report given by the brother of the deceased on the night between 25

April 26 April 2000. There is no plausible explanation on these circumstances and there is also no explanation as to why the dead body was brought down to the ground floor.

17) Defence of the accused that the rope was cut at the neck by using cutter (चिखी) which was found in the aforesaid room also does not appear to be probable in nature. The circle itself is shown to be cut which one can see from the photograph. This is again improbable defence.

18) The defence taken by the accused in the statement given under section 313 of the Cr.P.C. shows that accused No.3, mother of the husband, noticed that door of the aforesaid room was wide open. If the deceased had intention to commit suicide, in ordinary course, she would have closed the door first from inside by putting latch on it and then she would have committed suicide. This is again improbability in the story given by the defence.

19) For giving evidence on motive the prosecution has examined Balaji (PW 3), first informant. He has given evidence that the marriage had taken place in the year 1995 and there was ill-treatment to the deceased as the accused were asking the deceased to bring Rs.50,000 from the house of her parents for purchasing motor cycle for accused No.1, husband. He has given evidence that the deceased used to disclose that accused persons were even giving beating to her on this count. He has given evidence that she had then disclosed that the husband had illicit relation with a woman and she had recently realised it. At that time she was pregnant.

20) Balaji (PW 3) has given evidence that after delivery of second child they had reached deceased Godavari to the matrimonial house and at that time accused had made inquiry as to why the amount of Rs.50,000 which was demand was not brought. Thus, evidence is given on ill-treatment given on two grounds. In the F.I.R. at Exhibit 23 there was mention of both grounds and so to that extent there is corroboration of the F.I.R.

21) In the cross examination Balaji (PW 3) has given some vital admissions in favour of the defence. He has admitted that the land of the accused person is irrigated one, family of the accused owns tractors and husband of the deceased was already having a Hero Honda motor cycle. He has admitted that accused used to supply sugarcane to Basmat Sugar factory and the financial condition of the family of accused was sound. He has admitted in the cross examination that, on 18-2-2000 accused Gangadhar had transferred amount of Rs.59,800 by account transfer in the name of his father from one bank from village Yerendeshwar. The transfer took place on 25-4-2000. In view of the aforesaid vital admissions it does not look probable that there was demand of Rs.50,000 made by accused persons and they wanted to purchase motor cycle for accused No.1, by using that amount. However, the second ground that the husband had illicit relation with other woman remains there.

22) In the F.I.R. Balaji had mentioned that false information was given to them that Godavari had died due to fever, illness and accordingly he gave substantive

evidence in the Court. This evidence is of no use to the prosecution as admittedly AD report was given by Umrao, a brother of the deceased to inform that deceased had committed suicide by hanging herself and that information was given to them by Gangadhar. This document at Exhibit 41 can be used by both the sides. On one hand, this document shows that information was not supplied to the effect that deceased had died due to the fever but on the other hand this document shows that there was information that the deceased had committed suicide by hanging herself. In Exhibit 41 suspicion was expressed by mentioning that no explanation was given by the accused as to why dead body was taken down from the place of hanging by the accused. This circumstance is brought on record by the defence. This circumstance shows that after seeing the dead body, the relatives of the deceased on parents' side had rushed to the police station to inform about unnatural death and they were not sure about the cause of death.

23) Prosecution has examined Gayabai, mother of the deceased, to give evidence on the ill-treatment which

the deceased was receiving and her evidence is similar to the evidence of Balaji. Similar evidence is there of other person like Lalji (PW 6) who is from the side of the first informant. They are consistent on the point that the deceased had disclosed that her husband had illicit relation with one woman.

24) In the statement under section 313 of the Cr.P.C. accused Nos.1 to 3 admitted that they were living in the same wada but the room where the incident took place was in the use of Dnyaneshwar and the deceased as their bedroom. Due to this circumstance it was necessary for accused No.1 to explain as to what had happened on that date. When there is medical evidence leading to inference that it is homicidal death, there was strangulation, accused No.1 husband needs to say as to who other had the opportunity to do such act. The deceased had delivered second child only 2 to 3 months prior to the date of the incident. She was having two issues including the baby aged about 2-3 months. There is no explanation as to who was taking care of both the kids at the relevant time. These circumstances which are

unexplained confirm more the case of the prosecution that it is homicide. In such a case provisions of sections 106 and 114 of the Evidence Act need to be used. The trial Court has considered and used these provisions.

25) There is one more circumstance like recovery of ligature material on the basis of statement given by accused No.1. Evidence is given on this circumstance by examining Madan (PW 1), a panch witness. He has given evidence on the memorandum of statement given by accused No.1 to police and it is proved at Exhibit 16. He has given evidence that accused then produced from steel cupboard one wire generally used for electric iron, press. This article No.11 was shown to the doctor and evidence in that regard is already discussed. The panchanama of seizure of this article, ligature material is proved at Exhibit 17. In the cross examination, it is suggested to the witness that no attempt was made to find out the iron, press. The witness has stated that there was such iron press in the room when recovery was made. This circumstance can be used for corroboration though only to some extent. However, non recovery of ligature material

in such case cannot be treated as fatal. It is already observed that many a times investigating officer acts incompetently and in some cases may do it under the influence of somebody to help the accused. It is already observed that the ligature material was not sent to the C.A. office. Absence of such evidence cannot go to the root of the matter and if remaining evidence is sufficient, the Court can safely convict the accused if provision of sections 106 and 114 of the Evidence Act can be used against him. False information given by the accused can also be used as one relevant circumstance in such a case by using provisions of Sections 3 and 106 of Evidence Act.

26) Learned Senior Counsel has placed reliance on some reported cases in support of his various submissions. He placed reliance on the case reported as **(2016) 10 SCC 519 (Jose v. Sub Inspector of Police)**. In this case the Apex Court gave benefit of doubt to the accused when doctor's evidence showed that there was absence of characteristics attributed to homicidal death by strangulation. In the said case the Apex Court considered the circumstance that there was no evidence

from prosecution side to show that the accused was present in the house due to which provision of section 106 of the Evidence Act could have been used against him. Facts and circumstance of each and every criminal case are always different. The medical evidence of the present case is already discussed by this Court. The statements given under section 313 of the Cr.P.C. by accused Nos.1 and 2 are vague. Similarly there are other circumstances against the accused in the present matter which are already quoted.

27) In the case reported as **(2015) 7 SCC 178 (Tomaso Bruno v. State of U.P.)** when the Court formed opinion that some important evidence was withheld by the prosecution the benefit of the circumstance was given to the accused by drawing adverse inference. In that case provision of section 106 of the Evidence Act was also discussed and it was observed that it needs to be proved by the prosecution that the accused was in a position such that he could have special knowledge of the fact. A foreigner was involved and due to that circumstance the Court further held that it was not possible for foreigner to

lead evidence on alibi. Some observations are made with regard to expert testimony given under section 45 of the Evidence Act. The discrepancies in the medical evidence were also discussed. Thus many points were involved in the said matter which were required to be considered in the said matter. This Court has already observed that facts and circumstances of each and every criminal case are always different. The Court is expected to decide the case on the basis of material available before it. In the present matter so far as the medical evidence is concerned it also needs to be kept in mind that the dead body was in the house of the accused from the time of death till next day morning. This circumstance needs to be kept in mind while considering the challenge to the medical evidence. The trial Court found no reason to disbelieve the doctor and on this point this Court does not want to divert from the finding given by the trial court for the reasons already given.

28) The learned Senior Counsel for the accused placed reliance on some reported cases like **(2000) 3 SCC 454 (Rang Bahadur Singh v State of U.P.); AIR 1978 SC**

59 (Bir Singh v. The State of U.P.); (Page 29) and, AIR 1954 SC 51 (Habeeb Mohammad v. State of Hyderabad).

He submitted that the prosecution ought to have examined immediate neighbours who must have rushed to the spot as per the contention made by accused No.3 in her statement given under section 313 of the Cr.P.C. and as per the admission given by the investigating officer that he had recorded statements of some neighbours. On this, it needs to be observed that the accused had removed the dead body from the said room. In view of the circumstances of this case and when accused wanted to prove that it is a case of hanging and not strangulation as per the material available with the prosecution, it was necessary for the defence to give explanation and also lead evidence on their case. They could have also examined the neighbour if they had really removed the dead body from the place of hanging. It is already observed that the said defence does not appear to be probable in nature. When provisions of sections 106 and 114 of the Evidence act can be used against the accused, after giving some evidence or making out a prima face case by the prosecution and when inference is possible on the basis of unrebutted

evidence given by the prosecution against the accused, it becomes necessary for the accused to lead some evidence and explain the things. So, this Court holds that the proposition made in the aforesaid cases cannot be disputed but in view of the facts of the present matter the accused ought to have examined witnesses and so blame cannot be put on the persecution for it.

29) The learned Senior Counsel has placed reliance on following cases.

- (1) **AIR 2008 SC 1260 (Babu Ram v. State of Punjab);**
- (2) **AIR 2005 SC 2110 (Hem Raj v. State of Harayana);**
- (3) **(2002) 6 SCC 470 (Harijana Thirupala v. Public Prosecutor.**

Learned Senior Counsel submitted that there is evidence of only interested witnesses with the prosecution and so, the trial Court ought to have given benefit of doubt. The facts of the cases cited supra were totally different. When use of provisions of section 106 read with 114 of the Evidence Act becomes necessary, the Courts need to use different approach. In such cases only the accused

persons are the witnesses to the incident and the relatives of the victim who hail from other place can only imagine the things on the basis of the incident and they are required to leave everything to the investigating agency. In such cases where there is no possibility of direct evidence, the investigating agency can collect evidence on some circumstances. Neighbours of accused generally do not help police or the relatives of victim who hail from other village. Due to these reasons in a case like present one not much importance can be given to the circumstance that no independent witnesses are examined by the prosecution. This circumstance cannot make other evidence weak.

30) The learned Additional Public Prosecutor placed reliance on two cases like (1) **Criminal Appeal No.425/1996 (Thaman Kumar v. State of Union Territory of Chandigarh)** (Supreme Court); and (2) **Criminal Appeal No.682/1992 (The State of Maharashtra v. Laxman Ganti)** (Bombay High Court). In both the cases there was need to use provision of section 106 of the Evidence Act and the importance of this provision is discussed. This Court had

occasion to consider similar defence in the case cited supra and in similar circumstances it was held that strangulation was proved. This Court has already observed that it is opinion evidence of expert and the Court is expected to take decision on opinion not only on the basis of the fact noted by the expert in his report but also on the basis of surrounding circumstances. Every material which can be considered as evidence under section 3 of the Evidence act needs to be considered by the Court subject to condition of relevancy of such material. This Court has discussed the surrounding circumstances and due to that there is no alternative than to hold that the evidence as against husband, accused No.1 is sufficient to prove the offence of murder. The trial Court has held that provision of section 201 IPC cannot be used against the husband considering other probability, removal of the dead body by others, this Court does not want to disturb that finding.

31) The evidence given as against the parents of the husband shows that the evidence is not convincing in nature. The parents of the husband could not have been

convicted for offence punishable under section 498-A of the IPC for the reasons already recorded. There was no necessity to make demand of such amount by them when they had given some amount to the family of the first informant few months prior to the date of the incident. The financial condition was quite sound and so the case of demand of Rs.50,000/- against the parents of the husband and also the husband cannot be believed. However, in view of evidence on other motive and circumstances of the case, the husband knows the reason behind his act. Even absence of motive cannot make other circumstances weak. In the result, the appeal filed by the husband, Criminal Appeal No.156/2001, needs to be partly allowed and the appeal filed by the parents viz. Criminal Appeal No.118/2001 needs to be allowed. In result, following order :-

32 (a) Criminal Appeal No.156/2001 is partly allowed. The judgment and order of the conviction given by the trial Court to appellant Dnyaneshwar for offence under section 498-A of the Indian Penal Code is hereby set aside. The appeal in respect of conviction and sentence

given for offence of murder of Godavari punishable under section 302 of Indian Penal Code is however maintained. The appeal to that extent stands dismissed. The appellant Dnyaneshwar is to surrender to bail bonds for undergoing the sentence.

(b) Criminal Appeal No.118/2001 is allowed. The judgment and order of conviction of the trial Court against the appellants for offence punishable under section 498-A read with 34 of the Indian Penal Code is hereby set aside and they stand acquitted of the offence punishable under section 498-A read with 34 of Indian Penal Code. Fine amount if any deposited by these accused is to be returned to them. Similarly fine amount if any deposited by Dnyaneshwar in respect of sentence given for offence punishable under section 498-A IPC is to be returned to him. The bail bonds of the appellants of Criminal Appeal No.118/200 stand cancelled.

(c) Criminal Application No.4424 of 2014 and Criminal Application No. 4425 of 2014 are disposed of.

Sd/-
(SUNIL K. KOTWAL, J.)

Sd/-
(T.V. NALAWADE, J.)

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