

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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CRIMINAL APPLICATION NO. 2665 OF 2017

THE STATE OF MAHARASHTRA
VERSUS
DINESH S/O. EKNATH AKUL AND OTHERS

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APP for Applicant – State :Mr.S.Y. Mahajan.
Advocate for R.Nos.1 to 5 : Mr.Gore Ravindra Vitthal.

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CORAM : V.L. ACHLIYA, J.
Dated: AUGUST 01, 2017

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The applicant – State has moved this application seeking leave to file appeal against the impugned judgment and order of acquittal dated 23rd February, 2017 passed by the Assistant Sessions Judge, Nanded in Sessions Case No.121/2012. By the impugned judgment, the learned Assistant Sessions Judge has acquitted respondents – accused of the offences punishable under Sections 498A, 306 r/w 34 of IPC.

2 The learned APP has strenuously contended that the trial Court has not

properly appreciated the evidence adduced by the prosecution. It is pointed out that besides the oral testimony of three witnesses i.e. P.Ws.1, 4 and 5 examined by the prosecution, the prosecution has proved the suicide note left behind by the deceased mentioning therein the cause for committing suicide. He submits that the trial court has refused to place reliance upon the suicide note by observing that in the suicide note, the deceased has not mentioned the date, time and endorsed her signature and there is inconsistency between the testimonies of P.Ws.1, 4 and 5 examined by the prosecution. He submits that the prosecution has good case to succeed in appeal.

3 On the other hand, learned Counsel for respondents No.1 to 5 supported the judgment and order passed by the trial Court. He submits that there is no specific allegation against respondent Nos.2 to 5 of ill-treatment and harassment as well as demand of Rs.50,000/- for purchase of motorcycle. He further submits that the trial Court has rightly observed that there is inconsistency amongst the testimonies of the P.Ws.1, 4 and 5. He further submits that in the

suicide note, the deceased has not attributed a specific role in causing ill-treatment and harassment to her by the accused persons. He has submitted that the deceased has committed suicide as she was not willing to return to her matrimonial house after giving birth to baby girl.

4 Having appreciated the submissions advanced in the light of record and proceedings of the case, I am of the view that leave to file appeal deserves to be granted to the extent of respondent Nos.1 to 4. Respondent No.5 is a married sister of accused No.1. Her marriage was performed much prior to the marriage of deceased with accused No.1. She is residing at her matrimonial house. The allegations made against her are vague and general in nature. I am, therefore, inclined to grant leave to file appeal to the extent of respondent Nos.1 to 4. Hence, the following order is passed:

: ORDER :

- i) Application is allowed partly.
Leave granted to file appeal against respondent Nos.1 to 4.

ii)Application stands dismissed as against respondent No.5.

iii)Appeal be registered and placed for admission on 10th August, 2017.

iv)Learned Counsel for respondent Nos.1 to 4 waives the notice for respondent Nos.1 to 4.

(V.L. ACHLIYA,J)

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