

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 943 OF 2009.

Balu @ Abhijeet S/o Bapurao Ubale,
Age: 24 Years, Occu: Agri,
R/O: Kumbhar Galli, Partur,
Tq. Partur, Dist: Jalna

....Petitioner.

Versus

1. The State of Maharashtra
2. Rushindra S/o Baburao Kale,
Age: 39 Years, Occu: Agri,
R/o : Kharpudi, Tq. & Dist: Jalna.

....Respondents.

Mr. Joydeep Chatterji, Advocate for petitioner.

Mr. S. D. Ghayal, APP for respondent No. 1/State.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.
DATED : JULY 21, 2017.**

ORAL JUDGMENT : [PER T.V. NALAWADE, J.]

. The proceeding is filed for relief of quashment of proceeding of Regular Criminal Case No. 121/2009 and the F.I.R. No. 42/2009 in which the case is filed by Partur Police, District Jalna. Both the sides are heard.

2) The F.I.R. was registered on the basis of report given by father of deceased Durga. She was given in marriage to Dnyaneshwar Dhage resident of Partur and she was aged about 26

years. The petitioner, accused is also from Partur and his house is situated in the vicinity of house of husband of Durga.

3) In respect of incident dated 23.11.2008, Durga had given report against the present petitioner and the crime was registered for offence punishable under sections 354, 506 of Indian Penal Code ('IPC' for short) against the petitioner in Partur Police Station. He had outraged the modesty of the deceased by holding her and by asking her to come with him. Even after registration of the crime and filing of the case by police, the conduct of the petitioner did not improve.

4) The petitioner kept on harassing the deceased. Even the petitioner had given taunts to the deceased and the deceased had disclosed this incident to her husband. About two months prior to the incident, the accused was on roof top of the adjacent house so that he was able to see the deceased. These incidents were disclosed by the deceased to her father also.

5) On 25.5.2009 the deceased committed suicide by setting herself on fire. On that day at about 8 to 8.30 a.m. the accused, petitioner had again tried to harass the deceased by making noise. As he used to do such acts every day, the deceased was feeling

harassed and so, she took the extreme step of suicide. The husband gave report against the petitioner on the same day and the crime came to be registered. There are statements of many witnesses who include the relatives of husband showing that they all knew that the petitioner was after the deceased and he was harassing her.

6) The learned counsel for petitioner submitted that in the case filed for offence punishable under section 354 of IPC, the petitioner is acquitted and so, it cannot be believed that the petitioner was harassing the deceased and the petitioner had abetted the deceased to commit suicide. He placed reliance on the cases reported as **AIR 2002 SUPREME COURT 1998 [Sanju alias Sanjay Singh Sengar Vs. State of Madhya Pradesh]**, **2008 AIR SCW 3202 [Sohan Raj Sharma Vs. State of Haryana]**. The facts and circumstances of criminal cases are always different. There cannot be straight jacket formula to ascertain as to whether there was abetment or there was no abetment. The inference can be drawn on the basis of facts and circumstances of a particular case. In the present matter, there are serious allegations against the petitioner. He was harassing the deceased who was a married women and even after giving of the report for offence punishable under section 354 of IPC, harassment was continued. Indian lady who is insulted this way can take such extreme step as Indian lady

cannot tolerate the defamation which follows such conduct of a person. Due to these circumstances, this Court holds that the matter needs to be left to the Trial Court for appreciation of the material and it is not possible to quash the proceeding itself. The circumstance that the accused is acquitted in the previous case cannot make him entitle to get relief in the present proceeding. In the result, the petition stands dismissed. Rule is discharged.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/