

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1187 OF 2016
ALONG WITH
CRIMINAL APPLICATION NO. 1188 OF 2016
IN
CRIMINAL APPEAL NO. 37 OF 2017**

Vaibhav Gajanan Pawde

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Mohan V. Khatavkar for the Applicant

Mrs. G. P. Mulekar, A.P.P for the Respondent-State

**CORAM : SMT. V. K. TAHILRAMANI &
REVATI MOHITE DERE, JJ.
MONDAY, 23rd JANUARY, 2017**

P.C. :

1. Heard both sides.
2. Applicant has been convicted and sentenced under Section 302 of the Indian Penal Code for causing death of his wife Chhaya @ Vaidehi. In Criminal Application 1188 of 2016, it is prayed that the sentence imposed on the applicant be

suspended and in Criminal Application 1187 of 2016, it is prayed that the applicant be released on bail.

3. The brief facts of this case are that the applicant was residing with his wife Vaidehi @ Chhaya at Village Man, Boisar. The evidence of PW 1-Tushar, the brother of Vaidehi shows that on 2nd September, 2013, at about 9:15 am, he received a telephone call that his sister Vaidehi @ Chhaya fell down in the bathroom and she sustained injuries, hence, she was admitted in Tima Hospital. On getting this news, PW 1-Tushar went to Tima Hospital. There, he met the applicant i.e. husband of Chhaya. On inquiry by Tushar with the applicant, the applicant told Tushar that Chhaya fell down in the bathroom while taking bath at about 7:30 am and on account of falling down, she had sustained injuries to her legs and head. However, the post-mortem notes show that no injuries were sustained by Chhaya on the head or the legs and instead, the below mentioned injuries were noticed by PW 9 - Dr. Shinde, who conducted the post-mortem. The injuries were mostly on the neck of Chhaya. The injuries are as under:

“[1] Irregular bruise mark with swelling of skin about 10 cm more over anterior aspect and right lateral aspect of neck.

[2] Linear abrasion about 1 cm in length tailing from left to right.

[3] Two small point abrasion over anterior aspect of neck.

[4] Linear and point abrasion over left cheek”.

The cause of death is asphyxia due to throttling. Obviously, Chhaya @ Vaidehi could not have throttled herself. It is not the case of the applicant that death is due to hanging or that Vaidehi tried to commit suicide. The applicant was the only person in the house. Hence, it can safely be inferred that the applicant caused the death of his wife Chhaya.

4. In addition to the above evidence, extra judicial confession was made by the appellant to PW 1-Tushar, PW 5-Bhalchandra and PW 7-Ramu. They have stated that the applicant told them that a quarrel had taken place between him and his wife Chhaya. During the quarrel, he pressed the neck of Chhaya and committed her murder.

5. In view of the evidence on record, we do not think that this is a fit case to suspend the sentence and grant bail. Applications are rejected.

(REVATI MOHITE DERE, J.)

(V. K. TAHILRAMANI, J.)