

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO.103 OF 2017

Kishor @ Babarao Milmile

..VS..

State of Maharashtra, through P.S.O. Wani, District Yavatmal

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri S.P. Gadling, Counsel for the appellant.
Shri A.V. Palshikar, Addl.P.P. for the State.

CORAM : P.N. DESHMUKH, J.
DATED : MARCH 22, 2017.

Heard.

Issue notice to the respondent.

Learned Additional Public Prosecutor
waives notice on behalf of the respondent/State.

ADMIT.

Call record and proceedings.

Criminal Application (APPA) No.182 of 2017

Heard.

Issue notice to the non-applicant.

Learned Additional Public Prosecutor
waives notice on behalf of the non-applicant/State.

Learned counsel for the applicant/appellant
contended that the Trial Court has considered evidence
of parents and both brothers of deceased and held that

there is no sufficient evidence to establish that applicant and his relations had demanded and accepted dowry to the extent of Rs.5,50,000/-. It is further contended that by considering evidence, the Trial Court also held that there was no sufficient evidence to establish that accused had demanded Rs.80,000/- and thus held that prosecution has failed to prove its case, however had convicted applicant for the offences punishable under Section 498-A of the Code of Criminal Procedure and under Sections 3 and 4 of the Dowry Prohibition Act.

In view of submissions advanced as aforesaid, perusal of impugned judgment reveals that applicant is convicted for the offence punishable under Section 498-A of the Code of Criminal Procedure and is sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.500, in default, to suffer further rigorous imprisonment for three months; and is further convicted for the offences punishable under Section 3 of the Dowry Prohibition Act and is sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.20,000/-, in default, to suffer further rigorous imprisonment for six months and on the count of Section 4 of the Dowry Prohibition Act is sentenced to suffer rigorous imprisonment for six months and to pay a fine of Rs.500/-, in default, to suffer further rigorous imprisonment for one month.

In the background of submissions advanced

as aforesaid, perusal of impugned judgment reveals that while considering evidence about payment of dowry to the extent of Rs.5,50,000/- by complainant, the Trial Court on considering evidence of parents of deceased and one PW5 Harish along with PW 6 Pankaj held that evidence is not sufficient to hold that such amount was paid to applicant and his relatives.

Similarly, while considering case of prosecution about payment of Rs.80,000/-, the Trial Court considered above stated evidence and held that even said aspect is not proved, however convicted applicant as aforesaid.

In that view of the matter, *prima facie* it appears that applicant has a a good case in appeal. In the circumstances, application is allowed, as per the order below:

Substantive sentence imposed upon applicant stands suspended. Applicant shall be released on bail on his executing a P.R. Bond in the sum of Rs.20,000/- with one surety in the like amount.

While on bail, applicant shall mark his presence with Wani Police Station, District Yavatmal, quarterly on the first day of each such month, pending appeal.

Applicant shall submit proof of his

residence with the investigating officer and shall update the same in the event of change in future.

Application is disposed of accordingly.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 24/3/2017