

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Appeal No.542/2007
(State of Maharashtra through PSO, P.S. Dhad, Dist. Buldhana .vs. Ganesh
Tukaram Bawaskar and others.)

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

Mr. R.S. Nayak, A.P.P. for Appellant.
Mr. A.J.Thakkar, Advocate for Respondent Nos. 2 & 3.

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CORAM : B.R. Gavai & Kum. Indira Jain, JJ.
DATED : March 20, 2017.

1. By way of present appeal, the appellant/State challenges the finding of acquittal as recorded by the learned Ad-hoc Additional Sessions Judge-2, Buldana.

2. The accused were prosecuted for the offence punishable under Sections 498-A, 304-B and Section 302 read with Section 34 of the Indian Penal Code.

3. The deceased was married to accused no.1 on 11.02.2005. Accused Nos. 2 and 3 are parents of accused no.1. Deceased Sarswatibai and accused no.1 resided together in the village Borkhed and thereafter they went to Surat. After 2-3 months the problem between the husband and wife started. It is the case of the prosecution that accused no.1 on the instigation of rest of the accused, started demanding money from the father of the deceased. On

6.12.2016 accused no.2 informed the father of the deceased Sarswatibai on telephone that his daughter is seriously ill. After going to the village Borkhed, the relatives found Sarswatibai to be dead. Accordingly first information report came to be lodged, the investigation was set in motion. At the conclusion of the investigation, the chargesheet came to be filed in the Court of the Chief Judicial Magistrate, Buldana.

4. The charges were framed. The accused pleaded not guilty and claimed to be tried.

5. The learned trial Judge found that in the present case there was no direct evidence and as such the case rested on the circumstantial evidence. The first point framed by the learned trial Judge is as to whether the prosecution had proved that the death was homicidal or not. It is to be noted that it was the case of the prosecution that the accused had first caused the death of the deceased by strangulation and thereafter burnt her. However, the learned trial Judge upon perusal of the evidence of PW2 Dr. Shrikant Jaiswal found that no marks were found on the neck of the deceased during post mortem. The learned trial Judge further found that though according to the prosecution witness the body of the deceased was smelling of kerosene, the clothes worn by the deceased at the time of her death were not sent for chemical analysis. The learned trial Judge further found that the medical

expert in the post mortem report in column no.18 had not given the definite opinion as to whether the injuries found on the person of the deceased were ante mortem. It has been further found by the learned trial Judge that the medical expert was not sure as to whether the death was homicidal, suicidal or accidental.

6. The scope of interference in an appeal against acquittal is well established. Unless the findings recorded by the learned trial Judge is found to be either perverse or impossible, it is not permissible to the Court to interfere with the same. We find that the learned trial Judge has thoroughly scanned the medical evidence. In that view of the matter it cannot be said that the view taken by the learned trial Judge is either perverse or impossible to warrant interference.

7. The appeal is, therefore, without merit and as such dismissed.

JUDGE

JUDGE