

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

CRIMINAL APPLICATION (BA) NO.853 OF 2016
(Sunil Baburao Vaidya and others vs. State of Maharashtra)

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

Shri R.A. Gupte, Advocate for applicants.
Shri A.M. Deshpande, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 19, 2017

Heard learned Counsel for both sides.

This application is filed by husband and
in-laws of deceased Priti for grant of bail in Crime
No.50/2016 registered under Sections 302, 304(B) and
498-A read with Section 34 of Indian Penal Code.

Shri Gupte, learned Counsel for applicants,
by referring to the report, has submitted that from the
same, neither of the Sections applied in the present
crime can be said to be attracted as contents therein are
totally vague and do not establish death of Priti as a
dowry death. It is contended that except for contents in
the report as relied by the prosecution, since there are no
other statements worth to be considered, application be
allowed.

Shri Deshpande, learned Additional Public
Prosecutor for respondent, has opposed the application
as per reply and in addition to report, has referred to
statement of Shubhangi, wife of brother of applicant

no.1 and by reading the same, has stated that according to her statement, applicant no.1 has confessed of his killing wife by setting her on fire. Learned Additional Public Prosecutor has, however, admitted that evidence in the form of extra judicial confession of applicant no.1 is the only evidence available on record.

On perusal of report, it is noted that parents of deceased Priti were very much residing with her till 6 a.m. of 17/4/2016 as they had visited their daughter for two days to give her company. Incident occurred on the same day at 11 a.m. when Priti died of burning. From the report, there appears to be general and vague allegations made against applicants and the contents of report are more or less in the manner of certain strained relations between deceased Priti and her husband. However, from the report, it cannot be said that there was any demand on the part of applicant husband from deceased Priti of any dowry. In fact, it is found that when complainant went to the house of applicants to reach deceased Priti to her matrimonial home, it is she, on her own, informed applicant no.1 that she would present some big gift after she has amount with her. After this incident, for a period of four months, there appears no contact between complainant and applicants and it is only on 15/4/2016 when complainant along with her husband stayed for two days with deceased Priti at her matrimonial home, incident is alleged to have occurred on 17/4/2016.

Having considered contents of the report as above and as per statement of Shubhangi, involvement

of applicants is by way of extra judicial confession, which is a weak type of evidence and needs evaluation - whether to be accepted or otherwise, application is liable to be allowed as per order below :

Applicants shall be released on bail on their executing P.R. Bonds in the sum of Rs.15,000/- each with one surety in like amount. Applicant no.1 shall mark his presence with Police Station, Lakhani on the first day of each month for a period of six months and thereafter on first day of every three months pending trial. Applicant nos.2 and 3 shall mark their presence with Police Station, Lakhani on first day of every three months pending trial. The criminal application is accordingly allowed.

JUDGE

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