

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

CRIMINAL APPLICATION (BA) NO.1119 OF 2016

Rama s/o Pandurang Jadhav

..VS..

State of Maharashtra, thr. its Police Station Officer, Police Station Barshitakli,
District Akola

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

Court's or Judge's Order

Shri S.G. Joshi, Counsel for the applicant.
Shri A.M. Deshpande, Addl.P.P. for the State.

CORAM : P.N. DESHMUKH, J.
DATED : MARCH 1, 2017.

This is an application by accused involved in
Crime No.15 of 2015 registered for the offences
punishable under Sections 304B and 498-A of the Indian
Penal Code.

Heard learned counsel for the applicant and
learned Additional Public Prosecutor.

It is submitted that investigation is complete
and charge-sheet is filed and from the documents filed
with the charge-sheet there is no consistency in the case
of prosecution establishing involvement of applicant to
have provided ill-treatment to deceased for non-
payment of dowry. It is submitted that belated report is

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lodged by mother of deceased involving applicant though in the dying declaration which is first in point of time recorded immediately after the incident, does not establish any dowry demand by applicant. It is thus contended that application be allowed as applicant is in custody since about two years since is arrested on 28.3.2015.

Learned Additional Public Prosecutor opposed the application as per its reply on record.

Perusal of report reveals that same is lodged by mother of deceased on 25.2.2015 at 12:10 p.m., while incident has taken place on 23.2.2015 at 2:00 p.m., alleging that after marriage of deceased with applicant about six years before, she was initially residing with applicant for a period of two years, however, thereafter she was subjected to ill-treatment on the count of dowry demand by applicant who is said to have demanded money from his deceased wife for purchasing truck.

From the report it reveals that for this reason deceased was staying with her mother and about ten days prior to the incident, applicant visited complainant and took deceased with him where she was staying for about one month and on 23.2.2015 complainant learnt from Abhiman Jadhav that her

daughter had sustained burn injuries and is admitted in main hospital at Akola. It is further stated that complainant on enquiring to deceased in the hospital as to incident is informed that as there was continuous ill-treatment of monetary demand for purchasing truck by applicant, she got fed up and thus poured kerosene on her person and had set her on fire.

Thus, according to report, which is lodged two days after the incident, it is specifically pleaded that deceased was subjected to ill-treatment on monetary demand for purchasing truck and such fact was disclosed to complainant by deceased in the hospital.

Perusal of documents with the charge-sheet however reveals that much prior to lodging of report, dying declaration is recorded on 23.2.2015 at around 2:30 p.m. by the Executive Magistrate wherein there is no mention of any such monetary demand by applicant much less to satisfy the same on sale of agricultural land, as sated in the report. On the contrary, what is stated in the dying declaration is, that deceased had committed suicide on her own by setting her person on fire as her husband was addicted to liquor. *Prima facie*, thus, it

is found that this is the reason which appears from the dying declaration which prompted deceased to commit suicide. However, in a belated report lodged after two days, applicant appears to have been implicated falsely.

In fact, false implication of applicant is found substantiated from additional statement of deceased recorded on 26.2.2015 after lodging of report as it reveals that on that day she learnt that her mother had lodged report against applicant. In view of contents of statement as aforesaid, deceased appears to have stated about alleged dowry demand by applicant in her additional statement to corroborate case of complainant as sated in F.I.R..

In view of inconsistencies in the contents of report, statements, and dying declaration as aforesaid, application is thus liable to be allowed as investigation is complete, as per the order below:

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

While on bail, applicant shall mark his presence with Police Station Barshitakli, District Akola quarterly on first day of each such month, pending Trial.

Applicant shall submit proof of his residence with the investigating officer and shall update the same in the event of change in future.

Criminal application stands 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 :- 7/3/2017

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