

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 69 OF 2006

The State of Maharashtra
Through Police Station Officer,
Police Station, Kaij, Dist. Beed.

....Appellant.

Versus

1. Rambhau Dattu Puri,
Age 55 years, Occu. Labour,
R/o. Dhotra, Tq. Kaij, Dist. Beed.
2. Rukhminbai w/o. Rambhau Puri,
Age 55 years, Occu. Household,
R/o. Dhotra, Tq. Kaij, Dist. Beed.

....Respondents.

Mrs. D.S. Jape/Ansingkar, APP for appellant/State.

Mr. D.H. Jadhavar, Advocate for respondents.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.
DATED : JANUARY 17, 2017.**

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The appeal is filed against judgment and order of Sessions Case No. 81/2004, which was pending in the Court of learned 2nd Ad-hoc Assistant Sessions Judge, Ambajogai, District Beed. The Trial Court has acquitted the respondents of the offences punishable under sections 498-A, 307, 34 etc. of Indian Penal Code (hereinafter referred to as 'IPC' for short). Both the sides are heard.

2) In short, the facts leading to the institution of the proceeding can be stated as follows :-

First informant Smt. Prabhawati was given in marriage to Mahadeo Rambhau Puri, who is son of respondents about four months prior to the date of registration of crime. It is the contention of first informant that she was treated well for about one month after the marriage, but after that the husband, parents of husband and sister of husband started harassing her by saying that no dowry was given in the marriage by her parents. It is her contention that they were asking her to bring Rs.10,000/- from her parents and on that count, they were even giving beating to her on occasions. The incident in question took place about 15 days prior to the date of registration of crime. It is contended that on that day at about 10.00 a.m. when the first informant was doing cleaning work, the mother in law picked up quarrel with her by saying that she was not able to do the household work properly and then mother in law gave beating to her. It is her contention that then father in law started saying that she should bring Rs.10,000/- from her parents. It is her contention that the husband then said that she should be finished and then he closed the door of house from inside. It is her contention that the mother in law then made her to fall on ground and mother in law forcibly administered insecticide to her. It is her contention that when the insecticide was being administered, her husband and sister

of husband held her hands and legs and father in law held her head. It is her contention that she became unconscious and somebody shifted her to hospital.

3) It is the contention of first informant that in Government Hospital her husband and her mother in law were by her side and they gave threat to her not to disclose the incident to anybody. It is her contention that after 2-3 days of incident when her father came to the house of her sister in law at Daskhed to see her and then she returned to the house of her parents and then she approached the police.

4) The crime was registered for aforesaid offences. During investigation of the offence, spot panchanama was prepared. Statements of some witnesses came to be recorded. The record of Government Hospital came to be collected and chargesheet came to be filed against the mother in law and father in law. Charge was framed. Both the accused pleaded not guilty. Chargesheet was not filed against husband as he was absconding and chargesheet was filed against sister in law in juvenile Court.

5) For proving the offences, prosecution examined five witnesses. The Trial Court has not believed the first informant and

the circumstance like delay caused in giving of the report is considered and acquittal is given.

6) The prosecution relied mainly on the evidence of first informant Prabhawati (PW 1). Her substantive evidence is as per the aforesaid contentions which were made in the F.I.R. The F.I.R. is proved as Exh. 16. She has given evidence that the insecticide was forcibly administered by mother in law and other accused had helped mother in law by holding her and by supplying insecticide to her mother in law. She has deposed that she regained consciousness when she was admitted in Government Hospital, Beed and at that time, her husband and mother in law were by her side. She has given evidence that when she recovered, she was taken to village Daskhed, the place of her sister in law by name Chaguna and from there she returned to the house of her parents. She has deposed that due to threats given by mother in law and husband, she did not disclose the incident to anybody and only after returning to the house of father, she could go to police.

7) The evidence of only Medical Officer from Beed Hospital could have given corroboration to the evidence of first informant. Dr. Anant (PW 5) has given evidence that on 24.9.2003 the first informant was admitted in Government Hospital by the husband of

first informant. He has given evidence that history of loose motion, vomiting and convulsion was given and during treatment he realized that it was a case of oral poisoning and so, he gave the treatment accordingly. The original case papers were brought to the Court and the M.L.C. prepared by the doctor is duly proved as Exh. 30. In the cross examination, doctor has admitted that the first informant was conscious throughout, but she did not give history about the incident. His evidence shows that no injury was found on any part of the person of first informant. Thus, the medical evidence is not supporting the version of Prabhawati (PW 1) that poison, insecticide was administered to her by using force.

8) The conduct of husband and mother in law was not consistent with the guilt. If they wanted to finish first informant they would not have shifted her to Government Hospital. The first informant has avoided to admit that the husband and mother of husband had shifted her to Government Hospital. It is surprising that Dr. Anant (PW 5) prepared M.L.C., but there is nothing on the record to show that police machinery was informed and police had made inquiry with first informant in Government Hospital, Beed. In ordinary course, Government Hospital must have informed police about it and some record must have been prepared. That record is not brought forward. Benefit of these circumstances need to be

given to accused persons.

9) Prosecution examined Dattatraya (PW 3), father of first informant and his evidence shows that intimation was given to him that first informant was admitted in Government Hospital. He had visited the Government Hospital where first informant was under treatment. He has tried to say that she was unconscious when doctor has given evidence that that she was conscious. His evidence shows that within few days the first informant was discharged by Government Hospital, Beed and then she was taken to village Daskhed. Thus, Dattatraya (PW 3) was keeping watch over the developments and it does not look probable that he had not made any inquiry with the first informant in Government Hospital, Beed. In ordinary course, first informant would have disclosed the incident to her father and father would have definitely approached the police after learning about the incident, if the incident had really taken place.

10) There is evidence of one more doctor like Dr. Dipak (PW 2), who has deposed that the first informant was brought to the Rural Hospital, Kaij on 7.10.2003. There was complaint that the first informant was suffering from throat pin, stomachache etc. The history of admission in Government Hospital, Beed was given and

that history was noted by him in Rural Hospital. It can be said that only after registration of crime, the first informant was sent to this hospital and it was an attempt to create some record against the accused persons. As there is such probability, not much weight can be given to the evidence of this doctor and record created by him.

11) The aforesaid circumstances create probability that there was no administration of insecticide by using force. However, circumstances and record have created a probability that there was consumption of insecticide. There is possibility that there was some incident like incident of quarrel and due to that, first informant had consumed insecticide. An attempt was made by her husband and relatives of the husband to save her life and actually life was saved. Due to these circumstances, this Court holds that it is not possible to interfere in the decision given by the Trial Court in favour of respondents. The view taken by the Trial Court is a possible view. In the result, the appeal stands dismissed. The record of the case is to be preserved as one accused is shown as absconding. Record be sent to the Trial Court.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

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