

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

CRIMINAL APPLICATION NO. 5959 OF 2013

1. Khalil Patel s/o. Munir Patel,
Age 30 years, Occu. Agril.,
2. Mehrunnisa Begum w/o. Munir Patel,
Age 60 years, Occu. Household,
3. Munir Patel s/o. Haji Patel,
Age 65 years, Occu. Agril.,
4. Shabbir Patel s/o. Munir Patel,
Age 45 years, Occu. Agril.,
All R/o. Daur, Tq. Biloli,
Dist. Nanded.
5. Mohammad Yunus s/o. Mohd. Yusuf,
Age 44 years, Occu. Agril.,
6. Hajera Begum w/o. Mohd. Yunus,
Age 40 years, Occu. Agril.,
Both R/o. Gadipura, Nanded,
Dist. Nanded.
7. Nadera Begum w/o. Sk. Babu Patel,
Age 36 years, Occu. Household,
8. Sahera Begum w/o. Nazir Patel,
Age 7 & 8 R/o. Kondalwadi,
Tq. Biloli, Dist. Nanded.
9. Tahera Begum w/o. Sk. Nabi,
Age 34 years, Occu. Household,
R/o. Wasarni, Tq. & Dist. Nanded.

....Applicants.

Versus

1. The State of Maharashtra,
Through Kondalwadi Police Station,
Tq. Biloli, Dist. Nanded.
2. Firozbeen s/o. Naser Chaus,
Age 35 years, Occu. Agril.,

R/o. Pethwadaj, Tq. Kandhar,
Dist. Nanded.

....Respondents.

Mr. M.V. Ghatge, Advocate for applicants.

Mr. M.M. Nerlikar, APP for respondent No. 1/State.

Mr. R.P. Bhumkar, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.
DATED : 02/08/2018.**

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

1) Present proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of RCC No. 11/2013, pending in the Court of Judicial Magistrate, Dharmabad for offences punishable under sections 498-A, 304-B r/w. 34 of Indian Penal Code. Both the sides are heard.

2) Deceased Reshma was given in marriage to Khalil Patel, resident of Daur, Tahsil Biloli, District Nanded on 26.7.2008. Applicant No. 1 is husband of deceased, applicant No. 2 is mother of applicant No. 1, applicant No. 3 is father of applicant No. 1 and applicant Nos. 4 is brother of applicant No. 1. The application of these applicants is already disposed of as withdrawn and the argument was advanced for applicant Nos. 5 to 9.

3) Applicant No. 5 is husband of applicant No. 6 and

applicant No. 6 is married sister of applicant No. 1. Applicant No. 7 is married sister of applicant No. 1 and similarly, applicant Nos. 8 and 9 are married sisters of applicant No. 1. Their place of residence is shown separate from the place of residence of applicant No. 1. Allegations are made in the F.I.R. by brother of the deceased that after six months of the marriage, the husband of the deceased and his relatives started asking her to bring Rs.four lakh as husband wanted to purchase Scorpio vehicle for him. Allegations are made that as the demand was not met with, illtreatment was given to the deceased by all the applicants. Allegations are made that they used to give stale food to the deceased and they were giving insulting treatment to the relatives of the deceased on parent's side. Sister of the first informant died on 17.7.2012 and intimation of death was given to the relatives on parent's side. F.I.R. was given on the same day.

4) The papers of investigation show that P.M. was conducted on the dead body and the report of expert, histopathology report was also called. C.A. report was also called. Opinion is given by doctor that the death took place due to cardiac arrest resulting from endocaeditis with valvular disease.

5) The learned APP submitted that the P.M. report and all

the photographs of the dead body show that there were some red marks on the neck etc. and due to that, inference of use of violence can be drawn. This submission is not acceptable as in P.M. report such marks were not noted and it can be said that when inquest was prepared for some reasons, due to changes which ordinarily take place after the death in the dead body, those red marks were appearing on the dead body. Proper precaution was taken taken and histopathology was done. In view of these circumstances and cause of death given by the expert, this Court holds that it is not possible to draw inference that it is unnatural death.

6) For proving the offence punishable under section 304-B of IPC, the prosecution needs to prove that it is unnatural death. It is not possible in the present case to prove such cause of death. Further, there is record to show that the deceased was admitted in Multi-Specialty Hospital in Nanded by the applicants and she was indoor patient from 7.7.2012 to 11.7.2012. The discharge card does not show that she was removed from the hospital against medical advise, though it is mentioned that discharge was on request. She was admitted for giving treatment in respect of aforesaid ailment and she had fever. Thus, it cannot be said that applicants were not taking care of the deceased.

7) The allegations made in the F.I.R. are very vague in nature. The submissions made and the record show that three issues were born out of this wedlock. The financial condition of the parents of the deceased was poor. No specific allegations are made as to when the first demand was made. If the first demand was made immediately after the marriage, then it does not look probable that for continuous four years, the demand was continued. Allegations as against the present applicants, who are relatives of the husband are vague. This Court holds that nothing can be achieved by asking present applicant Nos. 5 to 9 to face the trial. They were not living in the house where the deceased was cohabiting with the husband. In the result, the application of applicant Nos. 5 to 9 is allowed. Relief is granted to them in terms of prayer clause 'A'. Rule is made absolute in aforesaid terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/