

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.26 OF 2018

The State of Maharashtra ... Applicant

V/s.

Vaibhav Aabarao Gulve and ors. ... Respondents

Mr.A.R. Kapadnis, APP for the applicant/State.

CORAM : A.M.BADAR J.

DATED : 6th JUNE 2018.

P.C. :

1. This is an application for leave to appeal filed by the State seeking to challenge acquittal of respondent nos.2, 3 & 4 who are respectively mother-in-law and sisters-in-law of deceased Yogita, of offences punishable under Sections 306, 498A, 504 and 506 read with 34 of the Indian Penal Code recorded by the learned Additional Sessions Judge, Solapur on 18th November, 2017 in Sessions Case No.117 of 2013.

2. Heard Shri Kapadnis, learned Additional Public Prosecutor appearing for the applicant / State.

3. He drew my attention to the evidence of prosecution witness and submitted that evidence of record shows that respondent nos.1 to 3/accused nos.2 to 4 were harassing and beating deceased Yogita. With this, the learned Additional Public Prosecutor submitted that the prosecution has established the charge under Sections 306 and 498A of the Indian Penal Code against the Original accused nos.2 to 4 and, therefore, the learned trial Court erred in acquitting them.

4. I have carefully perused record made available. The Charge for offences under Sections 306, 498A, 504, 506 read with 34 of IPC was framed against the accused persons in the subject Sessions case. The accused No.1 Vaibhav was ultimately convicted of offence punishable Under Section 498A of the Indian Penal Code whereas rest of the accused persons viz. accused nos.2 to 4 – respondent nos.1 to 3 herein came to be acquitted of all offences alleged against them. These acquitted accused are mother-in-law and sisters-in-law of deceased Yogita - wife of the accused no.1-Vaibhav. Yogita committed suicide by hanging herself at her matrimonial house at Solapur on 3rd April, 2012. The evidence on record shows that the deceased Yogita was serving as Police Naik where as accused – Vaibhav was working as conductor in MSRTC. They married five years prior to incident of commission of

suicide by Yogita on 3rd April, 2012. That marriage was a love marriage.

5. The evidence on record shows that after marriage, the couple was residing in police quarter at Solapur whereas respondent no.1-Anjali Gulve-mother of the accused no.1 – Vaibhav – the husband of the deceased Yogita, so also respondent no.2 and 3 Vaishali Kashid and Ashvini Bhapkar were residing at Akkalkot. During the course of trial, the prosecution has examined neighbours of the deceased Yogita, so also her relatives including the first informant-mother of the deceased Yogita. I have carefully perused evidence of all these witnesses. Their evidence clearly shows that couple was residing at Solapur where as respondents / acquitted accused were staying at Akalkot. The evidence on record further shows that on 1st April, 2012 brother of deceased Yogita viz. Yalling, kidnapped sister of accused Vaibhav viz. Ankita and on that count Vaibhav quarreled with deceased Yogita. Two days thereafter Yogita committed suicide by hanging. The evidence on record does not show that after marriage of Yogita she was subjected to any cruelty or ill-treatment by the respondents/acquitted accused till 1st April, 2012. The evidence of the prosecution is conspicuously silent about any cruelty or ill-treatment to deceased Yogita by respondent/acquitted accused from 1st April, 2012 to 3rd April, 2012.

One witness has only stated that these accused persons used to harass and beat Yogita. At this juncture at the costs of repetition, it needs to mention here that Yogita was Police Naik whereas the respondents are mother-in-law and married sisters-in-law who were residing with their husbands in some different town. Such bald allegations cannot be accepted to infer commission of offences with which respondents were charged.

6. To summarize, there is no evidence to demonstrate that the respondents /acquitted accused had abetted commission of suicide of deceased Yogita by subjecting her to cruelty or indulge her in criminal intimidation.

7. The application is devoid of any merit. The application is, therefore, rejected.

(A.M.BADAR J.)