

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

APPEAL NO. 623 OF 2003

The State of Maharashtra

....Appellant/
(Orig. Complainant)

V/s.

1. Subhash Yeshwant Kale

Age : 27 years,

R/o. Parvati Nivas,

2/11, Tekdi Bangla,

Naupada, Thane.

2. Sau. Shakuntala Yeshwant Kale,

Age : 63 years, R/o. Parvati Nivas,

2/11, Tekdi Bangla, Naupada,

Thane.

....Respondents
(Orig. Accd nos. 1 & 2)

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Mr. Pandurang H. Gaikwad-Patil, APP for the appellant.

Mr. Rohan Surve, Advocate for respondents no. 1 and 2.

CORAM : SANDEEP K. SHINDE, J.**26TH OCTOBER, 2018.****JUDGMENT :**

1. The accused were prosecuted for allegedly

subjecting Supriya to cruelty in furtherance of their common intention and abating her to commit suicide. The Learned Additional District and Sessions Judge, Thane vide judgment and order dated 24th January, 2002 acquitted the accused of the offences punishable under Section 498A and 306 of the Indian Penal Code (IPC) against which this Appeal is preferred by the State under Section 378(1) Criminal Procedure Code (Cr.P.C.).

2. Heard learned APP for the State and learned Counsel for the respondent-accused.

3. Supriya suffered suicidal death within three months of her marriage i.e. on 28th March, 2000 due to deep burn injuries. Her brother thereupon lodged a complaint and alleged that Supriya was subjected to recurring harassment at the hands of the accused for not paying them Rs.40,000/-. He alleged that, the harassment was with a definite object to meet unlawful

demand of Rs.40,000/- and as such recurring harassment drove Supriya to commit suicide. On this expression, the offence under Section 498A and 306 was registered.

4. The prosecution in support of its case has examined brother, mother and two sisters. Neighbour (P.W.3) of the deceased was also examined. The Learned trial Judge found the evidence of the relatives has not established a fact that, Supriya was subjected to harassment with definite object to force her to meet unlawful demand of Rs.40,000/-. With the assistance of the Assistant Public Prosecutor and the learned Counsel for the respondents, I have gone through the evidence. It neither establishes the fact of "unlawful demand", nor consequent harassment at the hands of the respondent-accused for not meeting such demand. The evidence of these witnesses is more or less cyclostyle in nature and as such I do not see any reason to interfere with the finding recorded by the Learned trial Judge.

5. It is settled law that, under sub-clause (b) to Section 498A, each and every harassment does not amount to cruelty. The harassment has to be with an object to coerce a woman or any person related to her to meet any unlawful demand.

6. In the case in hand, the evidence has not proved at the first place that, there was any “unlawful demand” and further has not proved that Supriya was subjected to harassment and/or forced to meet the demand of Rs.40,000/-.

7. Admittedly Supriya suffered suicidal death. However, to prove the charge under Section 306 IPC, it is to be established that suicide had occasioned on account of cruelty which was of sufficient gravity so as to lead a reasonable person placed in similar circumstances to commit suicide.

8. Here, the defence successfully brought on

record, a 'Note' of the deceased through prosecution witness-P.W.3. The Note is at Article-A wherefrom it appears, Supriya was feeling herself guilty of suppressing some material facts from her husband-accused no.1. It probabilises defence.

9. Be that as it may, even if the said Note (Article-A) is excluded from consideration, the evidence on record is falling short of requirements to prove the ingredients of the offence punishable under Section 498A and 306 of the Indian Penal Code.

10. The reasons recorded by the trial Court is based on the evidence and the view taken by the Learned Judge is a possible view. Thus, I do not see any reason to interfere with the order of acquittal. In the result, the Appeal deserves no consideration. It is dismissed accordingly.

(SANDEEP K. SHINDE, J)