

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.570 OF 2015

Mrs. Kanta Suryakant Kothari

..Appellant

Versus

**Mr. Ishwarchand Amichand Govadiya (Jain)
and others**

..Respondents

**Mr. Kaushal Ambulkar I/by Mr. M. K. Kocharekar, Advocate for the
Appellant.**

Mr. V. V. Gangurde, APP for Respondent - State.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 18th JUNE, 2018**

P.C.

1] By way of present Appeal, the Appellant, who is mother of the deceased seeks to question the correctness of the judgment and order passed by the learned Additional Judge, Thane in Sessions Case No.379 of 2003, thereby acquitting the accused for the offences punishable under Section 498-A, 304(B), 306 r/w 34 of the Indian Penal Code ("IPC" for short).

2] Mr. Kushal Ambulkar, learned counsel appearing on behalf of Appellant submits that the learned Trial Judge has grossly erred in overlooking the evidence of PW-2 - Kanta Kothari and PW-3 – Suryapal Kothari, father of the deceased. He submits that perusal of evidence

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would reveal that the deceased had committed suicide within a period of one year from the date of the marriage. Their evidence would also show that there was ill treatment meted out to the deceased by the Respondents – accused. He further submits that the order of acquittal is not sustainable.

3] By now, the scope of interference against the acquittal is well settled. It has been held by Their Lordships of the Hon'ble Apex Court that only if the view taken by the learned Trial Judge is perverse and impossible, interference by this Court would be warranted. It has further been held that the Appellate Court cannot reverse finding of the Trial Judge, merely because other view is possible.

4] Perusal of the evidence of PW-2 would reveal that the only allegation made against the husband of the deceased is that on 21st February 2000, deceased had come to the house and informed that the accused was demanding an amount of Rs.50,000/- for purchasing motorcycle. Similar is the evidence of PW-3.

5] It could thus be seen that there is no evidence to show that the deceased was ill treated on account of non-fulfillment of the dowry and in such a manner that there was no other option left to her than to

end her life. In absence of such evidence, conviction under Section 302 or Section 304 would not be possible.

6] Apart from that, it is to be noted that there is delay of two days in lodging an FIR. As such, possibility of false implication as an after thought, cannot be ruled out. There is no perversity and impropriety in the judgment to warrant interference by this Court. The Appeal is therefore rejected.

[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]