

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 47 OF 2005

Patilba s/o Shripat Kale,
Age 70 years, Occ. Agriculture
R/o. Babhlitel, Tq. Vaijapur
District Aurangabad

...Applicant

versus

1. The State of Maharashtra
Copy to be served on P.P.
High Court, Bench at Aurangabad
2. Devidas s/o Janardhan Gayke
Age 25 years, Occ. Agriculture
R/o. Anchalgaon, Tq. Vaijapur
District Aurangabad
3. Janardhan s/o Parasram Gayke
Age 75 years, Occ. Agriculture
R/o. Anchalgaon, Tq. Vaijapur
District Aurangabad
4. Vimalbai w/o Janardhan Gayke
Age 60 years, Occ. Household
R/o. Anchalgaon, Tq. Vaijapur
District Aurangabad
5. Appasaheb s/o Janardhan Gayke
Age 23 years, Occ. Agriculture
R/o. Anchalgaon, Tq. Vaijapur
District Aurangabad

...Respondents

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Mr. S.G. Thombre, advocate for the applicant
Mr. V.M. Kagne, A.P.P. for respondent No.1
Mr. Sachin S. Bhise h/f Mr. S.J. Gaike, advocate for respondent Nos. 2 to 5
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CORAM : V. K. JADHAV, J.
DATED : 31st JANUARY, 2019

ORAL JUDGMENT:-

1. Learned counsel for the respondents-original accused submits that during pendency of this criminal revision application, respondent No.3 Janardhan Parasram Gayke and respondent No.5 Appasaheb Janardhan Gayke died. Learned counsel has also tendered across the bar death certificates of the aforesaid respondents. The said death certificates are taken on record. In view of the same, criminal revision application stands abated as against respondent No.3 Janardhan Parasram Gayke and respondent No.5 Appasaheb Janardhan Gayke and disposed of accordingly against them.

2. Learned counsel for the applicant submits that during pendency of this criminal revision application the applicant-original complainant died. Learned counsel submits that he had contacted the son of the applicant on phone and the son of the applicant has also informed that he is no more interested in continuing with this criminal revision application.

3. On perusal of record and proceedings and more particularly the evidence of prosecution witnesses, it appears that the

complainant Patilba, his wife P.W. Vatsala, P.W. Aba and P.W. Kacharu, had deposed about the amount of Rs.50,000/- agreed to be paid to the accused towards dowry. Out of the said amount of Rs.50,000/- an amount of Rs.45,000/- was paid and the remaining amount of Rs.5000/- was to be paid within one year. However, even though these witnesses have deposed about ill-treatment being extended to deceased on account of non fulfillment of the said demand, however, they have not deposed as to the specific instance about ill-treatment and nature of the ill-treatment. The learned Judge of the trial court has given importance to the evidence of P.W. Aba, who happened to be younger unmarried brother of deceased Vandana. He was present in the matrimonial home of deceased Vandana before the incident. However, he has not disclosed about the demand of balance amount of Rs.5000/- made to him by the accused and also further demand of colour television to his parents. Even he has omitted to state those material facts in his police statement. Even shortly before the incident, accused No.2 had called P.W. 2 Aba and enquired about his illness. This itself indicates that the relations between two families were cordial. P.W.2 Aba and other witnesses have not stated about the ill-treatment given by the accused to deceased Vandana. All the prosecution witnesses have not deposed that the accused were giving ill-treatment to deceased Vandana in connection with the unpaid dowry or due to some other

reasons. The learned Judge of the trial court has rightly observed that in absence of any positive evidence about cruelty, as defined under Section 498-A of I.P.C. the presumption under Section 113-A or 113-B of Evidence Act is not attracted. Thus, considering the entire aspects of the case, I do not find any substance in this Criminal revision application. The learned Judge of the trial court has rightly acquitted the accused persons for the offences punishable under Sections 304-B, 306, 498-A r.w. 34 of I.P.C. Furthermore, the applicant is no more and his son is reluctant to continue with this proceeding. During pendency of this criminal revision application, the respondent original accused Nos. 3 and 5 also died. Hence, the following order:-

O R D E R

Criminal revision application is hereby dismissed. Rule discharged.

(V. K. JADHAV, J.)

rlj/