

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

CRIMINAL APPEAL NO. 175 OF 2003

The State of Maharashtra

...Appellant

Versus

Arvind Dayanand Patil & Ors.

...Respondents

Shri. J.P. Yagnik, APP for State-Appellant.

Mr. Rajendra Sorankar, Advocate for Respondents.

CORAM : SANDEEP K. SHINDE, J.
DATE : 15th OCTOBER 2019.

P.C.

1. It is an appeal under Section 378(1) of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) against the order of acquittal dated 29.11.2002 passed by the learned II Ad-hoc Additional Sessions Judge, Thane, in Session Case No. 437 of 2000.
2. Charge under Sections 498-A and 306 read with 34 of Indian Penal Code, 1860 ("I.P.C. for short) was framed against the respondent-accused. The learned trial Court found the evidence adduced by the prosecution has neither proved the unlawful demand made nor found the accused intentionally instigated, aided the deceased, Vasanti to commit suicide.

3. Section 498-A and 306 of I.P.C. are independent and constitute a different offence, depending on the facts and circumstances of an individual case. Subjecting deceased Vasanti to cruelty may amount to offence under Section 498 (a) and may also if the course of conduct amounting to cruelty is established, leaving no other option except to commit suicide, amounts to abatement to commit suicide. The Hon'ble Apex Court in the case of Giridhar Tavde Vs. State of Maharashtra AIR 2000 SC 2078 has held that any event of willful act or conduct ought to be the proximate cause in order to bring home the charge under Section 498-A and not de hors the same. The legislative intent is clear enough to indicate, in particular, reference to explanation (b) that there shall have to be series of acts in order to be a harassment within the meaning of explanation (b).

4. In the case at hand, Vasanti (deceased) was married with Arvind (accused No.1) on 25.02.1991. Accused Nos. 2 and 3 are the in-laws of Vasanti. It is alleged, soon after the marriage, she was respected by the family members, however, thereafter, the husband and in-laws were asking her to bring VCR (valuable) and money from her parents, but due to her inability to fulfill such demands, she was recurrently beaten by the Accused No.1 by belt. It is disclosed in the evidence that Vasanti had lodged a complaint with police on 29.08.1998; say is nearly after 7 years of

her marriage. Resultantly, the accused Nos. 1 to 3 as well as the sister-in-law of deceased were arrested. It is alleged and also deposed by the brother of deceased that on account of the complaint lodged by Vasanti, her husband was suspended from the service and as such, there was financial crisis in the family. It is alleged that in the year 1998, Vasanti was asked to bring Rs. 50,000/- from parents. Brother of Vasanti deposed that on 25.03.2000 she was asked to bring of Rs. 50,000/- from her parents and threatened her of dire consequences if the demand is not fulfilled. On 27.03.2000, the Vasanti and her son went back to the matrimonial home. On the same day Vasanti admitted kerosene on herself and attempted to commit suicide. The brother of Vasanti shifted her to the hospital. The evidence shows that on 27.03.2000, her dying declaration was recorded by the Executive Magistrate PW-4 only after her state of health was found sound by Medical Officer.

5. The dying declaration has been proved by the prosecution at Exhibit – 27, which completely exonerates the accused. The deceased stated that at her will she poured kerosene on her person , set herself on fire and, thereafter, jumped from the gallery to ground. The cause of death as appears from the postmortem report was due to 100% superficial to the internal burns on body. The PM report is at exhibit – 22. She sustained

severe burn injuries as well as bleeding injuries.

6. The prosecution, in support of its case, examined the parents and brother of the deceased as PW-1 to 3. The father of the deceased is a complainant.

7. The evidence shows that soon before the incident, the deceased addressed a note to her parents, at Exhibit -33. It was seized by the police from the matrimonial home. As it appears from note that the deceased has cursed herself and feeling contrition or regret for past wrongs. She did not make allegation of unlawful demand or harassment against her husband and in-laws. Thus, the two documents i.e. the note at Exhibit-33 and the dying declaration completely exonerates the husband and in-laws from the allegation of the unlawful demand and consequent harassment.

8. The learned counsel appearing for the Respondent has brought to my notice a document at Exhibit – 49; a Bank Statement, admitted by the prosecution under Section 294 of the Cr. P.C. It appears therefrom, that the husband of the deceased had started a business of selling Sarees in the name of his wife and there are multiple transactions of substantial amounts as could be seen. In the back drop of this piece of evidence allegations of

demand of money were not conceivable.

9. Thus, the order of the acquittal passed by the trial Court is consistent with evidence. The learned APP could not point out any perversity in appreciating the evidence adduced by the prosecution. The view taken by the learned trial Judge is a possible view. The appeal stands dismissed accordingly.

(SANDEEP. K. SHINDE, J.)