

BDP-SPS

Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 591 OF 2018
(For leave to appeal)**

Shantaram Sadhu Gaikwad

..... Applicant.

V/s

Sandeep Kailas Sonawane
and Anr.

..... Respondents.

Ms. Rebecca Gonsalves for the Appellant.

Mr. A.A. Palkar, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: NOVEMBER 27, 2019

P.C.:-

- 1] This is an application for grant of leave to appeal.

- 2] Applicant is a father of deceased Sunita, who was a public servant.

- 3] Sunita committed suicide on 4/5/2016. Since prior to the said date, Sunita was in love relation with Respondent-Accused, resulting into prosecution of the Accused at the behest of the complainant for an offence punishable under Section 306 of IPC. Sessions Court

acquitted the Accused. Hence, this application.

4] With the assistance of the learned Counsel for the Applicant, I have gone through evidence of witnesses of the prosecution and the observations made by the learned Sessions Court in the judgment. Fact remains that deceased Sunita was married earlier. She was a divorcee. It is claimed that before her death, for a period of four years, she was in love with Respondent-Accused and Respondent-Accused has not honoured the commitment of marriage. Accused decided to marry on 8/5/2016 with some other girl, which has prompted her to commit suicide. Even if factum of commission of suicide by Sunita is admitted, there has to be material on record to infer that conduct of the Respondent-Accused has prompted Sunita to commit suicide. It should have been established by the prosecution that the conduct of Accused of not marrying deceased inspite of promise to marry, has driven her to commit suicide. It should have been also established by the prosecution that, because of act of refusal to marry with Sunita, she was likely to commit suicide was a fact within the knowledge of Accused.

5] Upon perusal of evidence of P.W. 1 – Ganesh Gaikwad, brother of the deceased, P.W. 2 – Shantaram Gaikwad, father of the deceased and P.W. 4 – Kavita Gaikwad, neighbour of the deceased, it is difficult to infer that there was any promise on the part of the Respondent/Accused to marry deceased Sunita. P.W. 4 – neighbour has admitted that she was not knowing the Accused, whereas P.W.1 – brother has admitted that Respondent-Accused has never assured of marrying Sunita.

6] In that view of the matter, no indulgence is warranted. Leave is refused.

(NITIN W. SAMBRE, J.)