

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPEAL NO. 191 OF 2019**

Nilesh Vijaysingh Jadhav .Vs. State of Maharashtra,through P.S.O, P.S.
Malegaon, Tq. Malegaon, Dist. Washim and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. V.P. Mohod, Advocate for appellant (appointed).
Mr. M.K. Pathan, A.P.P. for respondent no.1- State.
Mr. R.S. Kurekar, Advocate for respondent nos. 2 to 6.

CORAM : V. M. DESHPANDE, J.

DATED : DECEMBER 03, 2019

Heard Mr. Mohod, learned counsel appointed by
High Court Legal Services Sub-Committee, Nagpur for
appellant, Mr. Pathan, learned Additional Public Prosecutor
for respondent no.1-State and Mr. Kurekar, learned counsel
for the respondent nos. 2 to 6.

This appeal is filed against judgment and order of
acquittal passed by learned Additional Sessions Judge,
Washim in Session Case No.19/2018 thereby acquitting
respondent nos. 2 to 6 of the offence punishable under
Sections 306, 323, 504 read with Section 34 of the Indian
Penal Code.

Deceased is one Nagorao Jadhav. He was
husband of the respondent no.2. The respondent nos. 3 to 6
are close relatives of respondent no.2-Bharati. Marriage
between Nagorao and Bharti took place about 14 years back.
From their wedlock, they have five children.

The prosecution case is that initially Bharti and
Nagorao used to stay in the joint family, however due to

insistence on the part of Bharati they started residing separately. According to prosecution case, Bharti was in habit of picking up quarrels with the deceased and used to leave her matrimonial place and used to stay at Regaon at her parental place and when deceased used to visit the said place for fetching her that time other accused persons used to insult him. According to the prosecution case, when the deceased had been to bring back his wife, he was assaulted and was insulted. Therefore, he consumed poison on 28.11.2016.

In the Sessions Case, the respondent no.2 to 6 denied the charge. In order to prove charge, the prosecution examined in all 11 witnesses. The learned Judge of the Court below, after appreciating the prosecution case, found that the prosecution could not prove the tinch of abetment at the hands of the respondent no.2 to 6 for Nagorao for committing suicide and therefore he acquitted the accused persons. Learned counsel for the appellant, who is the brother of deceased at whose behest the present appeal is filed, submits that there was a chit found in the pocket of the deceased while conducting inquest *panchanama* mentioning the names of the respondents. He, therefore submits that learned Court below has committed error in acquitting them.

The learned Judge has considered the said chit in extenso. It is found that said chit does not bear signature of the deceased or his thumb impression. Further, the said chit along with other natural hand writing of the deceased was not sent to the hand writing expert to have the expert's

opinion that the chit is written by the deceased himself. In my view, looking to this aspect it cannot be said that Court below has erred in not accepting the said chit. Further, though it is the case of the prosecution that the said chit was found in pocket of the deceased Nagorao, when his body was lying in the mortuary, for the reasons best known to the prosecution the inquest panchanama was not done then and there and subsequently the said panchanma was drawn.

The learned Judge also considered the evidence of Ishwari (PW11), a child witness, in its correct perspective. Also, there is a delay of two days in lodging first information report. The delay is not at all explained by the prosecution.

Merely because there used to be some quarrels between husband and wife, in my view, one cannot reach to the conclusion conclusively that by such disputes there was any abetment on the part of the accused persons.

In that view of the matter, I see no reason to disturb the correct finding of fact recorded by the learned Court below. Consequently, I pass the following order:

ORDER

- (i) The appeal is dismissed.
- (ii) Mr. V.P. Mohod, learned counsel appointed through High Court Legal Services Sub-Committee, Nagpur is entitled to receive his remuneration which I quantify to Rs.2,500/-.

JUDGE