

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 243 OF 2004**

The State of Maharashtra) ..Appellant

Vs.

Shri Balu Ravji Abhang)
35, R/o Behind Booking Office)
Nashik Road Railway Station)
Nashik Road) ..Respondent
(Ori. Accused)

Ms Anamika Malhotra APP for Appellant
Ms Spenta Havewala , Amicus Curaie
None for Respondent

**CORAM : K.R.SHRIRAM, J.
DATE : 20th FEBRUARY 2020**

ORAL JUDGMENT. :

1 This is an appeal impugning an order and judgment dated 3-11-2003 passed by the IInd Additional Sessions Judge, Nashik, acquitting respondent (accused) for the offence punishable under Sections 498A (*Husband or relative of husband of a woman subjecting her to cruelty*) and 306 (*Abetment of suicide*) of Indian Penal Code.

2 As none appeared for respondent, this court appointed Ms Spenta Havewala as Amicus Curaie. Before I proceed with the case, I must express my appreciation for the assistance rendered and endeavour put forth by Ms Havewala, learned Amicus Curiae, for it has been of immense value in rendering the judgment.

3 The case of the prosecution in brief is, complainant - Kisan Khandu Vetal (PW-1), had a daughter by name Sunita. Sunita was the third daughter of PW-1. Sunita was married to accused on 19-4-1999 and after marriage Sunita started living with accused at Eklahare Village. The mother and sister of accused were also living with them. The father of accused was in service with India Security Press and during the course of his employment, had died. PW-1 hoping that accused will get job in India Security Press on compassionate ground, got Sunita married to accused, though at the time of marriage accused was unemployed. Sunita had studied upto 12th Standard. For 12 months after marriage, the couple lived in Eklahare. According to PW-1, the relationship between Sunita and her mother-in-law and sister-in-law was not very cordial. But PW-2, who is the sister of Sunita, says that there were no serious disputes when Sunita was living at Eklahare and married life for some extent, was good.

4 After about a year of marriage, Sunita and accused shifted to Nashik Road. Sunita got job at the house of Nashik Station Master, where she was doing household work including washing of utensils. As part of the job, she was allowed to occupy the servants quarters behind the station master's house. Sunita was not being paid any salary. As accused was unemployed, he used to get drunk and beat Sunita. It seems, accused was telling Sunita to bring Rs.20,000/- from her father, i.e., PW-1, which could be used for doing some business. What business ? Nothing is mentioned.

5 After sometime, accused found a vocation and started selling fruits. As PW-1, due to his own poverty was unable to pay the amount of Rs.20,000/-, accused used to beat Sunita. It seems PW-1 also advised accused to treat Sunita well, but that had no effect on accused. In the meanwhile, Sunita conceived and a daughter was born to her.

6 On or about 18-9-2001, Sunita committed suicide by jumping in front of a running train. It is the case of PW-1, 15 days prior thereto, he had visited Sunita, when Sunita once again complained to him about the ill-treatment at the hands of accused. On 18-9-2001, the Deputy Manager of Nashik Road Railway Station lodged complaint at Nashik Road Railway Police Station. Based on the complaint, an inquest panchnama was done, post mortem was done and the cause of death given is shock due to poly-trauma.

7 On 20-9-2001, PW-1 lodged the complaint for the offences punishable under Section 498A and Section 306 of IPC. After investigation and recording of statements, charge sheet was filed before the JMFC, Railway, Manmad, who committed the case to the Sessions Court for trial as the offence under Section 306 is exclusively triable by the Sessions Court. Thereafter, charges were framed and accused pleaded not guilty and claimed to be tried. Stand of defence is total denial.

8 To drive home the guilt of accused, prosecution led evidence of 6 witnesses namely; Kisan Khandu Vetal (complainant), father of Sunita, as

PW-1; Shaila Ashok Gholap, sister of Sunita, as PW-2; Ashok Karbhari Gholap, husband of PW-2, as PW-3; Bharati Tulshiram Gadakh, neighbour of accused and Sunita, as PW-4; Bhagwat Ramdhan Sonawane, Head Constable, as PW-5; Vasant Gurulingappa Patil, PSI, as PW-6.

9 The Apex Court in *Ghurey Lal Vs. State of U.P.*¹ has culled out the factors to be kept in mind by the Appellate Court while hearing an appeal against acquittal. Paragraph Nos.72 and 73 of the said judgment read as under:

72. The following principles emerge from the cases above:

1. The appellate court may review the evidence in appeals against acquittal under sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can reappraise the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty.

The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that trial court was wrong.

73. In light of the above, the High Court and other appellate courts should follow the well settled principles crystallized by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would

1 (2008) 10 SCC 450

have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

i) The trial court's conclusion with regard to the facts is palpably wrong;

ii) The trial court's decision was based on an erroneous view of law;

iii) The trial court's judgment is likely to result in "grave miscarriage of justice";

iv) The entire approach of the trial court in dealing with the evidence was patently illegal;

v) The trial court's judgment was manifestly unjust and unreasonable;

vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/ report of the Ballistic expert, etc.

vii) This list is intended to be illustrative, not exhaustive.

2. The Appellate Court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached - one that leads to acquittal, the other to conviction - the High Courts/appellate courts must rule in favour of the accused.

10 The Apex Court in many other judgments including ***Murlidhar & Ors. Vs. State of Karnataka***² has held that unless, the conclusions reached by the trial court are found to be palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, Appellate Court should not interfere with the conclusions of the Trial Court. Apex Court also held that merely because the appellate court on re-appreciation and re-evaluation of the evidence is

2 (2014) 5 SCC 730

inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view.

We must also keep in mind that there is a presumption of innocence in favour of respondent and such presumption is strengthened by the order of acquittal passed in his favour by the Trial Court.

11 The Apex Court in *Ramesh Babulal Doshi Vs. State of Gujarat*³ has held that if the Appellate Court holds, for reasons to be recorded that the order of acquittal cannot at all be sustained because Appellate Court finds the order to be palpably wrong, manifestly erroneous or demonstrably unsustainable, Appellate Court can reappraise the evidence to arrive at its own conclusions. In other words, if Appellate Court finds that there was nothing wrong or manifestly erroneous with the order of the Trial Court, the Appeal Court need not even re-appraise the evidence and arrive at its own conclusions.

12 I have perused the impugned judgment, considered the evidence and also heard Ms. Malhotra, learned APP and Ms Havewala. I do not find anything palpably wrong, manifestly erroneous or demonstrably unsustainable in the impugned judgment.

13 PW-1 says in his evidence that accused was not doing any work and under the influence of liquor, used to beat Sunita and was insisting her to bring cash of Rs.20,000/- from parents for doing some business. PW-1

3 1996 SCC (cri) 972

says Sunita informed him about these things when she 4 or 5 times visited his house. PW-1 says even when he visited the house of Sunita 4 or 5 times, Sunita mentioned to him about the ill-treatment. PW-1 says Sunita went to his house just before delivery and 15 days after she delivered the child he went to reach her at Nashik, where accused was living. PW-1 says at that time, he requested accused not to consume liquor and also not to make demand for cash or not to beat or ill-treat Sunita, but there was no change in the behaviour of accused. These are all general statements and nothing specific.

PW-1 in his cross-examination states that accused did not have a job because of which his wife and other family members were disturbed. The mother of Sunita is not a witness. I would have expected a daughter to tell her mother all the problems, but strangely, the mother is not one of the witness, who was examined. 24 witnesses have been listed in the charge sheet, but only 6 witnesses, of which, two were police men, have been examined by prosecution. In his cross-examination, PW-1 admits that in his statement before the police, he has not mentioned that Sunita had gone to his house for delivery and after her delivery she resided with him for 15 days. PW-1 also admits that in his statement to the police, he has not mentioned that during that stay Sunita had informed him about the ill-treatment and demand for cash by accused.

14 PW-2, Shaila Ashok Gholap, sister of Sunita, says in the

examination-in-chief that Sunita informed her that accused was insisting her to bring cash and she had not disclosed the amount. PW-2 says on the date of incident, i.e., 18-9-2001, her husband (PW-3) informed her that accused had gone to his (PW-3) place of work and inquired about Sunita and also informed him that he had slapped Sunita because she refused to prepare meals for some friends he had invited for dinner. I wonder, why PW-2 would go and meet PW-3 at his place of work, which is almost 40Km from Nashik Road. Strangely, PW-2 says that accused even went to the school of her daughter and when she telephoned PW-3, he informed her that accused had gone to the school of her daughter. PW-2 admits that she had not informed the police that she had phoned to her husband after which, he reached the home. I have to note that the daughter of PW-2 and PW-3 has not been examined.

15 PW-3 say that Sunita never told about the ill-treatment and that he heard about it only from his wife. In his presence Sunita never had spoken to his wife, i.e., PW-2. PW-3 say that till recording of his statement by police, he did not inform anybody about the meeting of accused with him at Ashok Oil Mill, which contradicts that when PW-2 telephoned PW-3, he informed her about the meeting with accused at the mill. Therefore, evidence of PW-3 is not reliable.

16 PW-4, who is the neighbour of Sunita and Accused at Nashik Road, was called by prosecution to prove their case against accused. But

this witness was declared hostile because she states that Sunita never informed her about the ill-treatment by accused under the influence of liquor or about the demand of cash. PW-4 has also denied when the APP cross-examined her that Sunita ever informed her that accused used to consume liquor and abuse and beat her. PW-4 also denied that Sunita ever informed her that accused used to never pay any money for the household expenses. PW-4 also denied that prior to the date of the incident, there was a quarrel between Sunita and accused. In fact, PW-4 has denied the portion which is marked "A" that is recorded in her statement.

17 Defence led evidence of Kusum V. Savle (DW-1), wife of the Station Master, in whose quarters Sunita and accused were residing. In the examination-in-chief, DW-1 says that in her presence no dispute took place between Sunita and accused, nobody used to visit their house and Sunita never complained about accused.

18 Therefore, apart from general statements made by PW-1, there is no evidence to show that accused used to beat Sunita under the influence of liquor and also beat her for not bringing Rs.20,000/- from her father. PW-4 and DW-1 state that they never saw Sunita being ill-treated by accused and Sunita never complained to them of any ill-treatment by accused. We have to keep in mind that it is easy to accuse somebody of ill-treatment after some one dies, but it will not be wise to convict somebody based on such general statements.

19 Law on what would amount to an offence under Section 498A, has been well discussed in catena of judgments. It is settled law that under Section 498A of IPC, every cruelty is not an offence. The cruelty must be of such a degree as contemplated by the Section, i.e., it must be willful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb and health of the woman.

20 The Division Bench of this court in ***Kamlesh Ghanshyam Lohia and Ors. Vs. State of Maharashtra, through the commissioner of police & Ors.***⁴ in paragraphs 12 to 15, has observed as under:

“12. The allegations against the petitioners are, therefore, required to be appraised through the aforesaid backdrop. If we take the allegations in the FIR at par, qua the petitioners, at best, the following three allegations can be attributed to the petitioners :

(i) After the first informant and Krishna shifted to Juhu in June 2012, the petitioners occasionally visited them and during those visits, insulted the first informant by calling her fat and dark complexioned.

(ii) On every festive occasion, the family members of Krishna demanded clothes, ornaments and money from her parents and those demands were met.

(iii) All the family members humiliated the first informant by calling her, "infertile" and made her to demand money from her parents.

13. Whether the aforesaid allegations, even if taken at par, would warrant the prosecution of the petitioners is the moot question. It is indisputable that the cruelty under [section 498-A](#) of IPC has a specific legal connotation. Ordinary quarrels, differences of views and wear and tear of life, which every home witnesses, do not fall within the mischief of cruelty which [section 498-A](#) of IPC punishes. Nor, every ill-treatment or harassment falls within its dragnet. To fall within the tentacles of [section 498-A](#), the married woman must have been subjected to cruelty which would drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, or with a view to coerce her or any person related to her to meet an unlawful demand of property. Mere demand of money or property, unaccompanied by any harassment, would also not fall within the mischief of [section 498-A](#). There has to be a nexus between the demand and the consequent harassment.

4 2019 SCC online Bom 1762

14. On the anvil of the aforesaid legal position, if the allegations enumerated above, are weighed, it becomes evident that the first allegation of insulting the first informant after she shifted to Juhu in the year 2010, is of general nature. The allegation is stale as well. By no stretch of imagination, it can be stated that the alleged conduct had the propensity to drive the first informant to commit suicide or cause harm to herself.

15. The second allegation of all the family members of Krishna demanding money, clothes and ornaments on each of the festive occasions is also of general nature and bereft of any specific instance and authorship. The said allegations, at the highest, would indicate that on festive occasions certain articles were demanded. In the absence of the allegation that the first informant was subjected to harassment either in order to meet the unlawful demands of property or on her failure to meet such demands, the second allegation loses the incriminating tendency. “

21 A Learned Single Judge of this Court in **Neeraj Subhash Mehta**

Vs. The State of Maharashtra,⁵ in paragraphs 9 and 10 has observed as

under:

“9 Section 113A of the Evidence Act prescribes rule of presumption in case of suicidal death by a married woman. Whenever the question arose as to whether commission of suicide by a woman has been abetted by her husband or relatives of her husband and it is shown that she had committed suicide within the period of seven years of her marriage and that her husband or relatives of her husband had subjected her to cruelty, then the court may presume “having regard to all other circumstances of the case” that such a suicide has been abetted by her husband or relatives of her husband. It is, thus, clear that, this presumption cannot be raised automatically on proof of suicidal death within seven years of marriage and subjecting a married woman to cruelty. Something more is required to be seen for drawing this presumption.

10 By catena of judgments of this court as well as Apex Court what amounts to cruelty as envisaged by Explanation to Section 498A of IPC is explained. Cruelty implies harsh and harmful conduct with certain intensity and persistence. It covers acts causing both physical and mental agony and torture or tyranny and harm as well as unending accusations and recrimination reflecting bitterness putting the victim thereof to intense miscarries. The conduct, in order to prove guilt, must be such as strongly stirring up the feeling in the mind of a married

5 2017 SCC Online Bom 62

woman that life is now not worth living and she should die, being the only option left. In other words, provisions of Section 498A of the IPC envisages intention to drawing or force a woman to commit suicide by unabatted persistence and grave cruelty. A willful conduct of such a nature as is likely to propel or compel a married woman to commit suicide or to cause grave injury or danger to her life, limb or health is required to be established. In other words, matrimonial cruelty is included from the definition of legal cruelty. To put it in other words, ordinary petulance and discord or differences in domestic life does not amount to cruelty. By keeping this aspect in mind, let us prima facie examine the instant case for a limited purpose as to whether the applicant / accused is entitled for liberty. If the impugned judgment and order of the trial court is perused, then it is seen that the reasoning part is in paragraph 65 of the judgment. Reliance is placed on evidence of PW1 to PW3 by the learned trial court. It is observed that the dispute was over the issue of the deceased having made "kaccha chapati." Further observations are to the effect that this was too trivial matter to invoke extreme and harsh response of calling her brother and parents. In other words, the learned trial Judge was very well aware of the fact that the incident of commission of suicide was preceded by a trivial incident in the matrimonial life of Neha. Still, without further discussion, offence punishable under Section 498A of the IPC is held to be proved. Then by taking aid of Section 106 of the Evidence Act, as well as Section 113A thereof, it is held that the offence punishable under Section 306 of the IPC is proved."

22 As regards Section 306, it reads as under :

*"306. **Abetment of suicide.**—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*

What is abetment and who is an abettor can be found in Sections 107 and 108 of IPC which read as under:

*"107: **Abetment of a thing.**:- A person abets the doing of a thing, who:- (1) Instigates any person to do that thing; or (2) Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (3) Intentionally aids, by any act or illegal omission, the doing of that thing."*

“108. Abettor.—A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor. ”

23 Here is the case of abetment by instigation. When is a person said to instigate another ? The word 'instigate' literally means to goad, or urge, or to provoke, or incite, or encourage, to do an act, which the person, otherwise would not have done. It is well settled, that in order to amount to abetment, there must be mens rea or community of intention. Without knowledge or intention, there can be no abetment and the knowledge and intention must relate to the act said to be abetted, i.e., suicide, in this case. In order to constitute 'abetment by instigation', there must be a direct incitement to do the culpable act. This issue has been discussed by various High Courts and Supreme Court of India and some of those pronouncements are discussed here.

24 A Learned Single Judge of the Kerala High Court in *Cyriac, S/o Devassia and another Vs. SubInspector of Police, Kaduthuruthy and another*,⁶ dealt with extensively the concept of abetment to commit suicide after referring to a number of pronouncements including the decision of the Supreme Court of India.

The Learned Single Judge ultimately summarized the legal position as follows :

" 17. From the discussion already made by me, I hold as follows : The

6 2005 Criminal Law Journal 4322

act or conduct of the accused, however, insulting and abusive those may be, will not by themselves suffice to constitute abetment of commission of suicide, unless those are reasonably capable of suggesting that the accused intended by such acts consequence of suicide. Even if the words uttered by the accused or his conduct in public are sufficient to demean or humiliate the deceased and even to drive him to suicide, such acts will not amount to instigation or abetment of commission of suicide, unless it is established that the accused intended by his acts, consequence of a suicide. It is not enough if the acts of the accused cause persuasion in the mind of the deceased to commit suicide.

18. An indirect influence or an oblique impact which the acts or utterances of the accused caused or created in the mind of the deceased and which drove him to suicide will not be sufficient to constitute offence of abetment of suicide. A fatal impulse or an ill-fated thought of the deceased, however unfortunate and touchy it may be, cannot fray the fabric of the provision contained in Section 306 IPC. In short, it is not what the deceased 'felt', but what the accused 'intended' by his act which is more important in this context."

25 In paragraph 19 of ***Shivaji Shitole and Ors. Vs. State of Maharashtra & Anr.***⁷ this court has summed up the legal position on Section 306. Paragraph 19 reads as under:

"19. The legal position that emerges from the above discussion is as follows : Even if a person would commit suicide because of the torments of an accused, the accused cannot be said to have abetted the commission of suicide by the deceased, unless the accused would intend, while causing torments to the victim/deceased, that he should commit suicide. Even if the rigour of this proposition is diluted, still, the least that would be required is, that it should be shown that the accused could reasonably foresee that because of his conduct, the victim was almost certain or at least quite likely to commit suicide. Unless that the victim should commit suicide, is either intended, or can be reasonably foreseen and expected a person cannot be charged of having abetted the commission of suicide, even if the suicide has been committed as a result of some of the acts committed by the accused. A perusal of the reported judgments show that even in cases where the accused had uttered the words such as "go and die", in abusive and humiliating language, which, allegedly, led to the committing of suicide, it was held that it would not amount to instigation and that consequently, there would be no offence of abetment of suicide."

7 2012(3) Bom.C.R. (CRI) 532

26 The Apex Court in the judgment of ***Ude Singh & Ors. Vs. State of Haryana***⁸, has pithily explained what amounts to the abetment.

Paragraphs 37 to 40 of the said judgment read as under:

37. Thus, "abetment" involves a mental process of instigating a person in doing something. A person abets the doing of a thing when: (i) he instigates any person to do that thing; or (ii) he engages with one or more persons in any conspiracy for the doing of that thing; or (iii) he intentionally aids, by acts or illegal omission, the doing of that thing. These are essential to complete the abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do anything.

38. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

39. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of [Section 306 IPC](#). If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are

8 2019 SCC Online Sc924

only of such nature where the accused intended nothing more than harassment or snap show of anger; a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

40. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups, education etc. Even the response to the ill-action of eve-teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.

27 Paragraph 8 of the unreported judgment of the Apex Court in ***Rajesh Vs. State of Haryana***⁹ reads as under:

8. Conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC. (See Amalendu Pal alias Jhantu V. State of West Bengal¹⁰)

28 The courts have held that the evidence must suggest or indicate that the accused knew or had a reason to believe that deceased would commit suicide.

⁹ Delivered on 18-1-2019 in Criminal Appeal No.93 of 2019

¹⁰ (2010) 1 SCC 707

29 There is no evidence, whatsoever to even suggest that Sunita committed suicide because of ill-treatment or cruelty by of the accused. There is also no evidence whatsoever that the accused by their acts intended Sunita to commit suicide.

30 There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. For acquitting accused, the Sessions Court rightly observed that the prosecution had failed to prove its case.

31 In the circumstances, in my view, the opinion of the Sessions Court cannot be held to be illegal or improper or contrary to law. The order of acquittal, in my view, need not be interfered with.

32 Appeal dismissed.

(K.R. SHRIRAM, J.)