

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (APPA) NO.1060 OF 2019

IN

CRIMINAL APPEAL NO.816 OF 2019

(Manish s/o Mahadeo Daf and another ..vs.. State of Maharashtra, through PSO, Hinganghat)

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

Court's or Judge's orders

Shri A.C. Jaltare, Counsel for the applicants,
Shri S.M. Ghodeswar, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 18-02-2020

The applicants/appellants are convicted for offence punishable under Section 306 of the Indian Penal Code.

2. Applicant/appellant 1-Manish Daf is further convicted for offence punishable under Section 498-A of the Indian Penal Code and applicant/appellant 2-Jayant Gite is convicted for offence punishable under Section 354 of the Indian Penal Code.

3. The deceased is the wife of applicant/appellant 1-Manish Daf. She committed suicide by setting herself afire on 12-12-2013. Two dying declarations are recorded. The deceased stated that when she had gone to Nagpur to appear for an examination, she was residing with Bobby @ Arati, her husband's sister. The victim stated that at 12-00 p.m. on 09-12-2013

applicant/appellant Jayant Gite pressed her breasts and outraged her modesty. The victim did not raise hue and cry for the fear of awakening the other inmates. The version of the victim as is recorded is that she disclosed the incident to her husband Manish who, however, ignored her. The further version is that the deceased again made an attempt to impress the seriousness of what transpired and the response of the husband was to physically assault her. This culminated in the victim taking the extreme step.

4. The submission of the learned Counsel Shri A.C. Jaltare is that even if the entire prosecution case is accepted at face value, offence punishable under Section 306 of the Indian Penal Code is not made out. It cannot be said that there was any instigation. Nothing was done with the intention or the knowledge that the victim shall be constrained to end her life. Other submissions are also canvassed qua which no definite observation is necessary at this stage. I am satisfied that a case is made out for suspending the substantive sentence.

5. The application is allowed. The substantive sentence is suspended during pendency of the appeal, subject to the applicants/appellants depositing the fine amount in the trial Court, if not already deposited.

6. The applicants/appellants be released on bail.

7. Bail as in trial Court.

JUDGE

adgokar