IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 359 OF 2003

The State of Maharashtra
Through Police Inspector
Bhusawal City Police Station,
Tq. Bhusawal, Dist. Jalgaon. … Appellant
(Ori. Complainant)

Versus

1. Nilabai w/o Onkar Patil
(Appeal is abated as died)
2. Vijay Onkar Patil
Age 24 yrs., Occu. Service,
3. Ajay Onkar Patil
Age 21 yrs., Occ. Service,
All r/o Bhirud colony, Bhusawal
Tq. Bhusawal, Dist. Jalgaon. …Respondents
(Ori. Accused)

…

APP for Appellant – State : Shri S. G. Sangle
Advocate for Respondent Nos. 2 to 3 : Shri R. N. Chavan and
Smt. Kshama Sharma

…

CORAM : RAVINDRA V. GHUGE AND
B. U. DEBADWAR, JJ.

DATE : 11th FEBRUARY, 2021

ORAL JUDGMENT [PER RAVINDRA V. GHUGE, J.] :

1. By this appeal, the State has challenged the judgment and order dated 21-01-2003 delivered by the trial Court in Sessions Case No. 29 of 2002, vide which, all the three accused i.e. the mother-in-law, the husband and the younger brother of the husband, respectively, have been acquitted from the charge of

having committed offences punishable under Sections 498-A and 302 of the Indian Penal Code.

2. We have heard the strenuous submissions of the learned prosecutor on behalf of the State and the learned advocate on behalf of accused Nos. 2 and 3. Accused No.1, mother-in-law, has already passed away and the appeal has been abated to her extent.

3. We have considered the entire evidence, documentary and oral, adduced before the trial Court and which is before us as a part of the appeal paper book. Suffice it to say that the deceased was married to accused No.2 on 09-05-2001 and she died on 15-06-2001, i.e. after five weeks of her marriage. The entire case rests on the three dying declarations recorded at 07:55 a.m. on 15-06-2001, 10:10 a.m. on 15-06-2001 and 10:30 a.m. on 15-06-2001.

4. It has been clearly established before the trial Court that, on 14-06-2001, at around 06:00 a.m., the deceased had a quarrel with her deceased mother-in-law. On the same day, the deceased is alleged to have poured kerosene on herself in the evening and deceased accused No.1 allegedly set her on fire. She succumbed to her burn injuries at 02:05 p.m. on 15-06-2001. The

trial Court has rejected the theory of the accused that the deceased got burnt on account of the bursting of a stove which spilled kerosene on her resulting in her burn injuries. The trial Court has concluded that the deceased wife poured kerosene on herself and she set herself on fire because of a tiff with her deceased mother-in-law that occurred in the morning of 14-06-2001.

5. In the light of the above, we have perused the entire appeal paper book, threadbare. The case rests on the three dying declarations executed by the deceased. The father of the deceased PW2 has deposed that there was a demand for dowry. Rs.1,07,000/- was already paid as dowry and further demand of Rs.50,000/- was made by the mother-in-law. In his deposition at Exhibit-39, he submits that a motorcycle and a fridge was purchased and delivered to the in-laws. He has, then, deposed that the mother-in-law was consistently abusing her and was demanding additional Rs.50,000/- in dowry. His daughter narrated this version to him in the hospital and she died thereafter at 02:00 p.m. on 15-06-2001.

6. The first dying declaration of the deceased wife indicates that she has blamed her mother-in-law for constant harassment. Because of her tiff with the mother-in-law, that occurred in the morning of 14-06-2001, she burnt herself. She has

further stated that her mother-in-law has forced her to commit suicide and her husband is a very nice man. In the second dying declaration recorded on the same day at 10:00 a.m. by the Police Sub Inspector, Bhusawal City Police Station, she has again repeated the same story and has narrated the constant harassment caused by the mother-in-law for dowry. She has then stated that she poured kerosene on herself and her mother-in-law set her on fire. She again stated that her husband and his younger brother are very nice persons. In the third dying declaration recorded on the same day by the Police Sub Inspector of Zilhapeth Police Station, Jalgaon, the victim again narrated her quarrel with her mother-in-law and that she poured kerosene on herself and set herself on fire. She blamed her mother-in-law for her miseries.

7. In view of the above, we find that this case could be covered by Section 304-B of the I.P.C. which reads as under :-

> "304-B. Dowry death —
> (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.
> Explanation — For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).
> (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life. "

8. It is concluded by the trial Court, which we find to be correct that, there is no evidence against the husband accused No.2 and his younger brother accused No.3. Even if we hold that accused No.1, deceased mother-in-law has not set the victim on fire and that the victim committed suicide, there is evidence before us to support the case of the prosecution that there was a demand for dowry soon before her death and she died, admittedly, an unnatural death, within five weeks of her marriage. However, the mother-in-law, who is blamed for the dowry demand, has already passed away on 01-10-2015 and, this appeal is already abated to her extent.

9. In view of the above, this appeal is dismissed.

10. The record and proceedings and muddemal be returned to the trial Court and after the appeal period is over the muddemal, except the mangalsutra and four golden beads, being worthless, be destroyed.

11. The mangalsutra and four golden beads be handed over to PW2 – Shri Kautik Ananda Patil, father of the deceased.

(B. U. DEBADWAR, J.) **(RAVINDRA V. GHUGE, J.)**

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