

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

914 CRIMINAL REVISION APPLICATION NO.262 OF 2019

1. Eknath Chandrabhan Kurhade
Age : 28 years, occ : agri.,
R/o Sashte Pimpalgaon,
Taluka Ambad, Dist. Jalna.
2. Chandrabhan Dasu Kurhade
Age : 56 years, occ : agri.,
R/o as above.
3. Fulabai Chandrabhan Kurhade
Age : 49 years, occ : household
R/o as above.

Applicants

Versus

1. The State of Maharashtra
Through Police Station Chaklamba
District Beed.

Respondent

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Mr. Sudarshan Salunke, Advocate for the applicants.
Mr. R.B. Bagul, A.P.P. for respondent / State.

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CORAM : **SURENDRA P. TAVADE, , J.**

DATE : 13.08.2021.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.
2. The original accused Nos. 1 to 3 have preferred this Criminal Revision Application against the order dated 12th July 2019 passed on Exh.51 in Sessions Case No. 131/2016 by the Additional

Sessions Judge, Beed. The applicants had filed an application Exh. 51 for discharge from the offences levelled against them. The said application was rejected by the learned Sessions Judge. Hence, the present Revision Application came to be filed.

3. It is contended by the revision applicants that they have been prosecuted for the offences punishable under Sections 302, 304-B, 498-A and 201 read with Section 34 of the Indian Penal Code. It is contended that the Investigating Officer has given brief facts of the case in the charge-sheet wherein it is mentioned that there was a meeting for settlement between the parents of deceased Sangita and the applicants and other relatives on 10th July 2016. In the said meeting the parents of Sangita asked the applicants to take her alongwith them for cohabitation, but the settlement did not yield anything. Hence, Sangita remained in the house of original accused Nos.4 and 5. The applicants and other relatives went to their village. It is alleged that in the night of 10th July 2016 Sangita set herself on fire and she sustained burn injuries, but out of fear the original accused Nos.4 and 5 wrapped Sangita into quilt and thrown her into the well situated at Ganesh Nagar. On the next date body of Sangita was taken out of the well. It was sent for postmortem examination. On postmortem, Medical Officer opined that Sangita died due to 60% burn injuries with asphyxia due to drowning. So it can be said that Sangita died due to drowning coupled with the burn injuries. So, prima facie it is established that Sangita had sustained burn injuries and then she was thrown into the well.

4. Learned Counsel for the applicants submits that at the time of alleged incident, applicant Nos.1 to 3 were not present. Therefore, they cannot be blamed for the death of Sangita. On the other hand, the learned A.P.P. submits that entire allegations of the prosecution case are required to be seen. He invited my attention to the F.I.R., wherein it is specifically alleged that Sangita was being ill-treated for demand of money. She was driven out of the house. The parents of Sangita had tried their level best to settle the dispute and ultimately asked Sangita to go alongwith the applicants and other relatives. There was demand of money and on that count Sangita was being ill-treated. In the circumstances she attempted to commit suicide by pouring kerosene on her body, but ultimately she was thrown in the well by original accused Nos. 4 and 5.

5. If all the above-mentioned circumstances are taken into account, it can be said that the offences under Sections 304-B and 498-A of the Indian Penal Code are attracted against the present applicants. The said facts cannot be separated from the entire transaction in which the death of Sangita had caused. Therefore, the prayer to discharge the applicants from Sessions Case No. 131/2016 cannot be accepted. The applicants have also prayed in alternate that they may be discharged of the offences punishable under Sections 302 and 201 of the Indian Penal Code and can be tried for the offences punishable under Sections 304-B and 498-A of the Indian Penal Code.

6. As already observed above, the death of Sangita was caused due to burn injuries as well as drowning. There is material on record to show that soon before her death, she was being ill-treated for demand of money. Therefore, the prosecution case cannot be separated against the applicants and original accused Nos.4 and 5. The trial Court may frame charge on the basis of the charge-sheet. Investigating Officer has already mentioned that the original accused Nos. 4 and 5 have thrown Sangita into the well. But there are also allegations against the present applicants that they caused ill-treatment to Sangita prior to her death. Therefore, the entire transaction has to be taken into account which caused death of Sangita. Therefore, the alternate prayer also cannot be considered at this point of time. The trial Court is at liberty to consider the plea of the applicants while framing the charge.

7. In view of above discussion, I do not find any merit in the application. The application is, therefore, dismissed. Rule discharged.

(SURENDRA P. TAVADE, J.)

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