

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPEAL NO. 583 OF 1998**

**HANMANT ANNA MORE**

Age 27 yrs, Occ. Agriculture and  
Driver, R/o Wazoli, Taluka Patan,  
District Satara

.. Appellant

Versus

**The State of Maharashtra**

.. Respondents

...

Mr. Sharad Bhosale with Advocate Shraddha Pawar i/b Dilip  
Bodake for the appellant.

Mr.S.R. Agarkar, APP for the State.

**CORAM: BHARATI DANGRE, J.**

**DATED : 16<sup>th</sup> MARCH, 2021**

**ORAL JUDGMENT:-**

1           The marriage of the deceased Sangita was solemnized with the appellant Hanmant on 27<sup>th</sup> June 1994 and she was found dead in her matrimonial house on 1<sup>st</sup> June 1996, the death being initially registered as A.D. No.13 of 1996 with Dhebewadi Police Station. On a report being lodged by one Ashok Mane, brother of the deceased Sangita, the appellant along with his mother and brother were arraigned as accused and charge-sheeted for the offence punishable under Sections 304B, 306, 498A read with Section 34 of the IPC.

2           The Addl. Sessions Judge, Satara in Sessions Case No.124 of 1996 acquitted the Accused nos.2 and 3 of all the charges. Appellant is acquitted under Section 304-B of the IPC but convicted for the offence punishable under Section 498A and sentenced to suffer Rigorous Imprisonment for two years and to pay fine of Rs.1,000/- in default SI for one month. The appellant is also convicted for the offence punishable under Section 306 IPC and sentenced to undergo RI for 5 years and to pay fine of Rs.2,000/- in default SI for two months. The substantive sentences are ordered to run concurrently. It is this judgment of conviction which has prompted the appellant to present the Criminal Appeal, which is admitted on 22<sup>nd</sup> June 1998. On the appeal being admitted, the appellant was directed to be released on bail subject to furnishing fresh bond.

3           I have heard the learned counsel Shri Sharad Bhosale along with Shraddha Pawar i/b Advocate Dilip Bodake for the appellant and Mr.S.R. Agarkar, learned APP for the State.

4           The judgment of the Sessions Judge is assailed by the appellant as being not appreciative of the evidence on record and is criticized on the ground that in absence of any cogent evidence or circumstances to prove the abetment to suicide, the trial Court has grossly erred in inferring that the death of Sangita is not

accidental but suicide. Another ground which is pressed into service is that the prosecution has not produced any single document regarding demand of dowry or depicting any provocation or abetment to Sangita, at the instance of the appellant who is her husband and mere bare words are not sufficient to hold him guilty. Further, the trial Court has relied upon the testimony of the witnesses who are interested witnesses and naturally has a partisan approach, being interested in seeing the appellant behind bar and the evidence of such witnesses demand a close scrutiny and the contradictions and improvements in their version has missed the attention of the trial Court, is the submission. The delay in lodging the FIR is also pressed as a ground to doubt the truthfulness of the prosecution case and its credibility.

The learned APP strongly support the judgment, and according to him, the trial Court has appreciated the evidence on record in its proper perspective and it led to an irresistible conclusion that the deceased committed suicide and the appellant is guilty for abetting the said suicide, apart from the harassment meted out by him to the deceased within two years of marriage.

5           On 2<sup>nd</sup> June 1996, PW No.1 Ashok approached the police station, alleging that on 1<sup>st</sup> June 1996 at around 5.00 p.m, two boys who arrived on motorcycle at his village and informed him that his sister is serious and they should immediately proceed

to Wazoli. On reaching there, he witnessed Sangita being deceased, upon which her brother-in-law Sampat intimated the police and the police arrived at the spot. In his complaint, he narrated the woes and distress of his sister on being married to the appellant, who was working as a truck driver at the time of marriage and who immediately after the marriage, quit the job and started harassing Sangita for bringing money from her parental house. This was narrated to him by Sangita in great detail, and he referred to various incidents, which would meet the parameters of cruelty and based on the said complaint, an FIR was registered.

6 In support of its case, prosecution examined three witnesses, the complainant being examined as PW no.1. Ashok reiterated the sufferings of Sangita at the hands of the appellant and his family, post her marriage solemnized on 27<sup>th</sup> June 1994. He deposed that he and his brother are in service in Army. He has further deposed that he was on leave from 11<sup>th</sup> May 1996 to 11<sup>th</sup> July 1996 for marriage of his two brothers. He has stated that after marriage, the deceased started cohabiting with the appellant at Wazoli which is at a distance of 10 to 14 kms from village Manyachiwadi and Sangita used to often visit her parental house. He mentioned about the demand of dowry at the instance of the appellant within one month of the marriage, but since the family was not in a position to settle the said demand, since the money

was spent in the marriage ceremony she was made to return empty handed. Sangita continued to narrate her suffering whenever she used to come to her parental house and one year before her death, burn injuries were noticed on her right hand and her back. When inquired, she attributed the said injury to her mother-in-law and sister-in-law and stated that it was the appellant who had caused those burns by some iron article. At the time of the incident, PW 1 was on leave and was at his residence. This incident was thought to be sufficient to report to the police station but for the intervention of the elderly family members, it was decided not to report. Last time when PW 1 met Sangita, was on 24<sup>th</sup> May 1996, when she visited her parental house to attend the marriage ceremony and had told that her husband and mother-in-law have demanded money or she will be subjected to serious consequences. While returning to her matrimonial house, she expressed that if money is not paid to her in-laws, her life was under threat, but somehow she was convinced to return back with no money being arranged for.

On the fateful day i.e. on 1<sup>st</sup> June 1996, within five days of her return, Sangita was found dead.

7 Another witness examined by the prosecution is brother Sanjay, whose testimony is in sync with that of PW no.1. PW no.3 is the uncle of the deceased who was present in the meeting pursuant to the incident of Sangita, sustaining burns at

the hands of the appellant and the appellant had justified the burn injuries as Sangita did not know cooking. On mediating, accused admitted that he would not ill-treat and therefore, no complaint was lodged. The Investigating Officer was examined as PW 5.

8           On appreciation of the evidence brought on record by the prosecution, the trial Court held that the prosecution has succeeded in establishing the death of Sangita as suicide and the accused no.1 as the one who abetted the commission of suicide by the deceased. It was the accused no.1 who was held to have harassed the deceased with an intention to coerce her or her parental relatives to fulfill the illegal demand of money and convicted the appellant for offence under Section 306, 498A of the IPC.

9           Section 498A which prescribe the punishment on subjecting the woman to cruelty, by way of explanation clause set out as to what would amount to cruelty. The expression 'Cruelty' has been defined in wide terms so as to include any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or harassment of the woman with a view to coerce her or any person related to her to meet any unlawful demand for any property or

valuable security or is on account of failure by her or any person related to her to meet such demand. The provision which has been incorporated by Act no.46 of 1983, aim to prevent the torture to a woman by her husband or by relatives of her husband. Proof of wilful conduct actuating the woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical is the *sine qua non* of rendering a finding of cruelty.

10           The conduct of the appellant as deposed by the prosecution witness nos.1, 2, 3 squarely lie within the wide definition of 'cruelty' as understood for the purposes of Section 498A. As the facts have emerged from the deposition of the prosecution witnesses, the deceased immediately within one month of her marriage was subjected to harassment by coercing her to meet the unlawful demand by the appellant and the harassment becoming aggravated on account of failure on part of her family to arrange for the demanded amount. The harassment reached a pinnacle, when burn injuries were caused to her and when she reported the said incident to her parental family. As being the normal scenario in a middle class rural setting, her family members were pacified on an assurance that the said torture would not be repeated by the accused and she was asked to rejoin her matrimonial home. Not long prior and to be precise five days ago, the deceased apprehended a danger to her life,

while returning to her matrimonial house, since the demand of the accused was not fulfilled by her family members. Five days apart, she took her life, being driven by the cruelty to which she was subjected to, at the hands of the appellant.

11 Cloud is sought to be raised on the testimony of the witnesses of the prosecution, three of them being the close relations of the deceased. If the testimony of these witnesses inspire confidence and they are found to be credible witnesses, I see no reason to discard their evidence as they are the most natural and material witnesses to speak about the treatment afforded to the deceased in a matrimonial house. The father of the deceased being suffering from cancer, it was but natural for the deceased to confide in her mother and the two brothers in a hope that they would afford some solution to her woes. The testimony of the said witnesses is cogent, in corroboration and not shattered at all on the aspect of cruel treatment meted out to the deceased and as an apprehension expressed by her concerning her life, since the demand raised by her in-laws remain unfulfilled. A young married woman would naturally speak to her family members instead of making the issue public.

12 Necessary corollary being that there was no independent witnesses examined by the prosecution but that in any case, do not weaken the case of the prosecution. Though the

witnesses examined are close relations and interested witnesses, it should also be borne in mind that these are the witnesses who have lost their near and loved ones and will not let the accused escape free, but would make the woes of their sister exposed to public gaze by approaching the police authorities and subsequently deposing in the Court, unfortunately after she is dead. The objection of the learned counsel for the appellant that no letters have been produced which would have cogently established the case of the prosecution and mere oral testimony is not enough, is just mentioned to be rejected. The submission that on the earlier occasion, the incident of burn injuries, alleged to have been sustained by the deceased, was not reported, though the brothers are in military and educated and aware of the legal scenario, also do not carry any significance as the case was of a girl who was asked to cohabit with her husband and his family, for the sake of saving the honor of the family and particularly when she was newly wedded. The submission that the prosecution has failed to prove cruelty, therefore, just deserve a rejection.

13            True that it is not every harassment to a married woman which would attract the rigors of Section 498A but it is only when the harassment is referable to the demand of any property or valuable security and on account of the failure by the woman or her relatives to meet such demand, the offence can be said to have been made out.

In the present case, the prosecution has brought on record that the harassment was caused on account of the non-fulfillment of the demand as made and the demand continued and the harassment also continued on account of its non-fulfillment.

14           Section 113-A of the Indian Evidence Act, 1872 raise a presumption as to abetment of suicide by a married woman and when the question arises whether commission of suicide by a woman had been abetted by her husband or any relatives of her husband and it is shown that she has committed suicide within a period of seven years from the date of her marriage and that her husband or relatives had subjected her to cruelty, the Court may presume having reference to all other circumstances of the case, that such suicide is abetted by her husband or by such relative of her husband. The presumption of course is rebuttable, *albeit*, no evidence has been brought on record by the appellant to that effect, particularly when prosecution has established its case by the cogent and reliable evidence. The deceased was continuously harassed and subjected to cruelty on account of the demand which is unlawful amount and such positive evidence being brought on record by the prosecution, the accused had the burden of rebutting the presumption, which he has failed to discharge.

15           In order to attract Section 306, a charge of abetment of suicide, the necessary ingredient to be established is the proximity of action to that of the time of occurrence or occasion of suicide. The deceased, barely before five days had expressed her apprehension when she was leaving for the matrimonial home and was worried about her future since her demand was not fulfilled and this chain of antecedents being brought on record through the prosecution witnesses establish proximity to the time of the death of deceased, being on 1<sup>st</sup> June 1996. The ingredients of Section 306 are clearly established by clinching cogent evidence unequivocally indicating that the appellant abetted commission of suicide by the deceased on account of the harassment meted out to her. The trial Court has rightly appreciated the surrounding circumstances based on the spot panchnama as well as the testimony of the witnesses to conclude that the death was suicidal and since the deceased was in custody of the appellant, the burden ought to have been discharged by him, of proving the existence of the circumstance or fact within his knowledge as she was in his custody. The appellant has even failed to discharge this burden and it is not even the case of the appellant that the deceased was hyper sensitive and had over-reacted and assumed the treatment given to her as harassment.

16           The prosecution has established its case by cogent evidence brought on record by the witnesses, though oral, which

inspire confidence and merely because no complaint about ill-treatment was lodged earlier, cannot lead to an adverse inference and it does not, in any manner, shake the credibility of the prosecution witnesses who have in sync deposed about the ill-treatment and an apprehension in the mind of the deceased that her life is under threat. The appellant was afforded every opportunity to meet the charge and in his statement under Section 313 of the Code of Criminal Procedure, except for citing a reason of the prosecution witnesses have baffled on account of the sudden death of Sangita, the appellant has not in any way, led any evidence to disbelieve the prosecution case.

17           The judgment passed by the trial Court in Sessions Case No. 124 of 1996, therefore, do not warrant any interference since it is based on cogent and credible evidence brought on record by the prosecution. Resultantly, the Appeal fail and is dismissed. The conviction of the appellant under Section 498A and Section 306 of the IPC and the sentence imposed on such conviction by the impugned judgment is confirmed.

18           The appellant is granted time of six weeks to surrender before the Sessions Judge, Satara who is directed to take him into custody. The time shall start running from the date of uploading of this judgment.

**SMT. BHARATI DANGRE, J**