

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION (ST) NO.424 OF 2021**

Mrs.Asha Ramdas Dembalkar & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr.Ranjeet Pawar for the Applicants.

Mrs.M.M.Deshmukh, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 8th JANUARY, 2021

P.C:-

1. The two applicants are apprehending their arrest in C.R.No.1177 of 2020 registered with Yawat Police Station, Taluka Daund, District Pune thereby invoking Sections 306, 498A, 504 read with 34 of IPC. Applicant No.1 is the mother-in-law whereas applicant No.2 is the brother-in-law of deceased Rutuja.

2. The case of the prosecution is that Rutuja got married to son of applicant No.1 on 1st July, 2018. As per the complaint, which is lodged by the mother of the deceased on 26th December, 2020, after the marriage, her daughter was leading a happy married life. The differences are only pointed out from March 2020 onwards, during lockdown. The complainant states that when her daughter came to visit their place during Diwali in November, 2020, she narrated that her mother-in-law, sister-in-law and brother-in-law were harassing her on account of

household work and sometimes there used to be a quibble with her sister-in-law, who used to visit them frequently. Attempts were made to pacify her. After Diwali, the deceased went to reside at her matrimonial house and at times, she used to make phone calls and refer to the gibes on part of her in-laws. She was, however, consoled to reconcile.

A vague allegation is made against applicant No.2 to the effect that Rutuja had informed her that her brother-in-law used to call her and complain about she not paying attention to him. The woes were narrated by deceased to her husband and he had also pacified his relatives.

3. On 23rd December, 2020, the daughter of the deceased had taken ill and, therefore, she was admitted in the hospital. On 24th December, 2020, at around 5.00 p.m., the sister-in-law of the deceased abused the complainant on telephone by stating that her daughter was attempting to split the joint family. On 25th December, 2020, when the daughter of the deceased was discharged from the hospital, the complainant accompanied her and it is alleged that her mother-in-law and sister-in-law did not indulge in any conversation with them. They went to sleep and early in the morning on 26th December, 2020, the deceased locked herself in her room and hanged. This is the precise allegation contained in the complaint.

4. The harassment, which has been referred to, is not specific except the allegations that there was some taunting and

ridiculing. The alleged harassment was on account of some household work being not performed. Pertinent to note that Chapter XX-A of the Indian Penal Code deals with 'cruelty by husband or relatives of husband' and which comprises of Section 498-A. The term 'cruelty' by virtue of Explanation (a) and (b) appended to the said Section is defined in the following manner:

“Explanation.- For the purpose of this section, “cruelty” means-

(a) 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

(b) harassment of the woman where such harassment is with a view to coercing 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.”

“Cruelty” thus is any conduct which is of such a nature , which 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 or harassment of the woman to coerce her to meet any unlawful demand.

5. The narration as contained in the complaint, *prima facie*, refers to only harassment of the deceased on account of household work. It is not specified that she was subjected to any physical harassment. The mental harassment, if only on account of taunting, in order to attract the provisions of Section 306, which would require an instigation or abetment to commit suicide, should be of such a nature which would drive a woman

to take an extreme step. *Prima facie*, the said element being conspicuously absent in the complaint, subject to the applicants co-operating with the investigating agency, they are entitled for protection in anticipation of their arrest. Hence the following order.

: ORDER :

- (a) The application is allowed.
- (b) In the event of arrest in C.R.No.1177 of 2020 registered at Yawat Police Station, Taluka Daund, District Pune, applicant No.1-Asha Ramdas Dembalkar and applicant No.2-Samadhan Ramdas Dembalkar shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (c) The applicants shall report to the concerned police station on every Tuesday and Friday between 10.00 a.m. and 2.00 p.m. for a period of four weeks.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

SMT. BHARATI DANGRE, J