

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

CRIMINAL REVISION APPLICATION (REVN) NO. 4 OF 2020

Pankaj s/o Murlidhar Paunikar and others

Vs.

The State of Maharashtra, through its Police Station Officer, Lakadganj,
Nagpur and another

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

Court's or Judge's orders.

Ku. Apurva D. Kolhe, Advocate for applicants.
Shri I.J. Damle, Advocate for non-applicant No.1.
Shri M.K. Mishra, Advocate for non-applicant No.2.

CORAM : V.M. DESHPANDE, J.
DATE : JANUARY 27, 2021.

By this revision application, the applicants are challenging the order dated passed by the learned Additional Sessions Judge-5, Nagpur dated 09.09.2019 below Exhibit-4 in Sessions Trial No.363 of 2017, whereby the learned Judge of Court below rejected the application for discharge filed by the present applicants.

(2) Heard Ku. Apurva Kolhe, learned counsel for the applicants, Shri I.J. Damle, learned A.P.P. for non-applicant No.1 and Shri M.K. Mishra, learned counsel for the non-applicant No.2.

(3) The applicants herein are the accused Nos.3,4,6 and 7 in the charge-sheet, which is filed against them along with co-accused by the Police Station Officer, Lakadganj,

Nagpur for an offence punishable under Sections 304B, 306, 498A read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act in F.I.R. No.91 of 2017.

(4) Deceased was one Rupali. Her marriage with applicant no.1 was solemnized on 26.05.2013 and she died unnaturally on 01.05.2017 by hanging herself. Thus, unnatural death of Rupali occurred within a span of 7 years. In that view of the matter, a statutory presumption as envisaged under Section 113A and 113B of the Indian Evidence Act, 1872 is available to the prosecution.

(5) The learned counsel for the applicants submitted that though 22 witnesses are examined by the Investigating Officer during the course of investigation, their statements are vague in nature and the allegations against the present applicants are also vague in nature and are not sufficient for framing the charge against them. Besides this, another submission was that if the statement of one Mangesh is seen, then soon before the death the mental status of deceased was not such that she would commit suicide. The learned counsel for the applicants therefore submitted that the order passed by learned Judge of the Court below be quashed.

(6) Sufficiency or insufficiency of the material cannot be the factor to be decided at the stage of framing of charge. What is to be seen by the Court while framing the charge is

whether there are allegations in the prosecution case against the accused or not. The evidence at the stage of framing of the charge may not be sufficient to record conviction but that is not the criteria while framing the charge. Even grave suspicion is enough for framing the charge.

(7) In that view of the matter, the submission of the learned counsel for the applicants that the allegations made against the present applicants are not sufficient, cannot be accepted.

(8) Insofar as mental state of the deceased soon before the death aspect is concerned, it is a matter of appreciation of evidence. On that particular point of time, she might be stating that the said prosecution witness namely; *Mangesh* can visit her house for eating *Dhokla* but that does mean that prior to that she was not subjected to cruelty resulting into her taking the extreme step of her life. The learned Judge of the Court below has rightly considered the prosecution case in order to consider the application filed on behalf of the present applicants for discharge. No case is made out for revision. The application is rejected.

JUDGE

Wagh