

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.144 OF 2019

Sangeeta w/o Dattatraya Telenge ... **APPELLANT**

VERSUS

Jaykant @ Jekya s/o Namdeo Waghmare
and others ... **RESPONDENTS**

.....
Mr. A.M. Gaikwad, Advocate for appellant
Mr. M.M. parghane, Advocate for respondents No.1 to 3
Mr. S.P. Sonpawale, A.P.P. for respondent No.4.
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CORAM : R. G. AVACHAT, J.

DATE : 7th JANUARY , 2022

PER COURT :

The original informant, widow of the deceased, has preferred this appeal from acquittal. The respondents No.1 to 3 were prosecuted for the offences punishable under Sections 306, 323 and 504 read with Section 34 of the Indian Penal Code and acquitted thereof.

2. The deceased Dattatraya committed suicide on 14/6/2016. The reason behind commission of suicide is

stated to be the beating given by the respondents No.1 to 3 herein to him. The deceased appears to have not left behind a suicide note. From perusal of the evidence in the case and the judgment impugned herein, the trial Court held that there is no connection between the alleged beating and the commission of suicide. Even if such connection is established, it could not be said that the same constituted abetment of suicide. Learned counsel for the appellant herein would submit that, the deceased had emotional relationship with a niece of the respondent No.1. A statement of Janabai, mother-in-law of the deceased was recorded under Section 164 of the Code of Criminal Procedure. She has stated in her statement that, one chit was found on the person of the deceased. The concerned police officer took it into his custody. The same is not part of the police papers. It is true that, Janabai has not been examined. The said note, if any, found on the person of the deceased, is not on record. A xerox copy of one letter/ chit has been placed on record. It is said to have been in the handwriting of the niece of the respondent No.1 who was said to have been in emotional relationship with the deceased. The appellant herein has not placed that document on record of the trial Court. Be that as

it may, even if we peruse the contents of the said chit/ note, it may at the most be concluded that the deceased and Sheela were in emotional relationship.

3. On the question of beating by the respondents No.1 to 3 to the deceased, an offence punishable under Section 323 of the Indian Penal Code is concerned, the trial Court found the informant (appellant herein) to have improved her version in that regard in her examination-in-chief. The same was not averred in the First Information Report. The trial Court, on appreciation of the evidence, held the informant's evidence in that regard was hear-say. As regards evidence of P.W.3 Datta is concerned, it is to be stated that, as per his version, the incident of beating took place by 11.00 p.m. whereas as per the prosecution case, the same took place by 1.30 a.m. The trial Court, on appreciation of the evidence in the case, found evidence of P.W.3 to be not believable.

4. In the facts and circumstances of the case, no useful purpose would be served by admitting the appeal. It is reiterated that, even one goes by the statements of the witnesses who have not been examined before the trial Court,

no case for the offence of abetment of suicide (punishable under Section 306 of the Indian Penal Code) would be made out.

5. In the result, the appeal fails. It is dismissed.

**(R. G. AVACHAT)
JUDGE**

fmp/-