

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

CRIMINAL APPEAL NO.835 OF 2004

The State of Maharashtra,
through PSI, City Chowk P.S.,
Aurangabad

..Appellant

Vs.

1. Suresh Gaibi Darade
Age : 25 years, Occ. Service,
r/o. Aurangabad
2. Gaibi Raghoji Darade
Age : 56 years, Occ. Service
3. Navalbai @ Subhadrabai
Gaibi Darade, Age : 55 years,
Occ. Household, r/o. Andera,
Tq. Deulgaonraja, Dist. Buldhana
4. Chhayabai Rambhau Mundhe,
Age:23 years, Occ. Household,
r/o. Palkheda Chakka,
Tq. Sindhakhedraja, Dist. Buldhana
5. Sunita Shivhari Andhale,
Age:27 years, Occ. Household,
r/o. Tedgaon, Tq. Sindhakhedraja,
Dist. Buldhana
6. Vithoba Pandurang Kayande,
Age:45 years, Occ. Business,
r/o. Sindhkhedraja, Dist. Buldhana,
7. Ramkunwarbai Vithoba Kayande
Age:40 years, Occ. Household,
r/o. Sindhkhedraja, Dist. Buldhana

..Respondents

Mr.S.P.Sonpavale, APP for appellant
Mr.N.S.Ghanekar, Advocate for respondents

CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 14, 2022

ORAL JUDGMENT :-

This is an appeal filed by the State against acquittal. The respondents herein were charged and prosecuted for the offences punishable under Sections 498-A and 306 read with Section 34 of Indian Penal Code. After having considered the evidence adduced by the prosecution, learned Addl. Sessions Judge, vide judgment and order dated 27.07.2004, was pleased to acquit the respondents of the offences they were charged with.

2. Heard learned counsel appearing for the parties.

3. Learned APP for the appellant would submit that there were dying declarations (Exh.20). The C.A. reports were also on record. Those have been duly proved. The trial Court, however, has not taken them into consideration. The deceased died of 90% of burns. Certain articles came to be seized from the residence of the respondent-husband. The deceased died within fourteen months of her marriage. Her father, PW 1 - Himmatrao, has categorically

stated about the illtreatment meted out to the deceased by the respondents herein. A bed sheet was also recovered from the house of the respondent-husband. He would further submit that a neighbour, who is wife of a police employee, was also examined. She, however, did not stand by the prosecution. Learned APP also relied on the letters (Exh.10 to Exh.16) written by the deceased to her parents. He took this Court through the letters to submit that all was not well and the deceased was not happy. Same suggests that she was frustrated of her marital life and had, therefore, no option but to end her life. He also brought attention of this Court to the evidence of PW 6 – Deepak to submit that when he had been to the house of the deceased, she had narrated her woes. He, therefore, urged for setting aside the judgment of acquittal and further urged for convicting the respondents.

4. Learned counsel for the respondents would, on the other hand, submit that in view of acquittal of the respondents, presumption of innocence has been reinforced. The deceased gave her statement to the Medical Officer, Special Executive Magistrate and Police Officer as well, wherein she claimed to have sustained burns accidentally. The Investigating Officer vouch for the same.

According to him, the evidence of the father of the deceased would suggest that she would write letters to him and other relations, at least, once a month. However, only three letters have been placed on record. Same suggests that other letters are not in favour of the prosecution. The letters, which have been placed on record, do not suggest any of the respondents to have had illtreated the deceased in connection with unlawful demand. At the most, the interference therefrom can be drawn that the respondent-husband did not like his father-in-law to visit his residence. That might be the cause for the deceased to have not been happy. When her dying declaration and the letters nowhere suggest the respondents to have ever illtreated her, the oral evidence of her father and other witness has rightly not been acted upon by the trial Court. Learned counsel, therefore, urged for dismissal of the appeal.

5. Considered the submissions advanced. Perused the evidence relied on. True, the deceased died within fourteen months of her marriage. The cause of death is said to be 90% burns. Admittedly, her statement was recorded by the Medical Officer, Special Executive Magistrate and Police Officer as well. In all the three statements, the deceased claimed to have suffered

burns accidentally. Her letters (Exh.10 to Exh.16) addressed to her father would reveal that the respondent-husband did not like her father to visit his residence. The reasons therefor are not known. The letters, however, did not make out a case that the deceased had ever been illtreated by the respondents in connection with unlawful demand.

6. The evidence on record suggests that the deceased's father-in-law was also in police service. He had little over 9 acres of agricultural land. True, the father of the deceased claimed to have paid a sum of Rs.71,000/- to the respondent-husband. There is evidence to indicate that the father-in-law of the deceased had placed an order of gold ornaments for the deceased. True, same were for the marriage. Whatever the father of the deceased has testified before the Court is in the nature of oral evidence. Same shall give way to the letters and the dying declaration of the deceased, wherein none of the respondents have been attributed with unlawful demand of money as the alleged cause to drive her to commit suicide. The deceased claimed to have suffered burns accidentally.

7. In view of the above, the trial Court has rightly appreciated the evidence in the case and acquitted the respondents herein. From the aforesaid evidence, no different view is possible. The appeal, therefore, fails. The same is dismissed.

[R.G. AVACHAT, J.]

KBP