

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.351 OF 2009

The State of Maharashtra

Appellant
(Org.Complainant)

versus

Pramod Atmaram Mohite,
Age 33 years, Occ.Service,
R/o.At Kiran D/7, Kiran Vihar Sankul
Near Prant Office, Shivajinagar,
Chiplun.

Respondent
(Org.Accused)

Mr.S.V.Gavand, APP, for State.

Ms.Yashvita Apte i/by Mr.Harshad Bhadbhade for respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th January 2022

JUDGMENT :

1. This appeal is preferred by State of Maharashtra under Section 378(3) of Code of Criminal Procedure challenging judgment and order dated 1st September 2008 passed by Additional Sessions Judge, Khed acquitting the respondent of the offence under Sections 498-A and 306 of Indian Penal Code.

2. The prosecution case in brief is as follows :

The complainant is the brother of deceased. On 17th August 2005 the FIR was registered with Chiplun Police Station. It is alleged that the victim was married to respondent-accused on 25th May 2000. She was working in the office of MSEB, Chiplun from 1999. The accused was a teacher. They had a daughter out of wedlock. They were residing at Chiplun. The respondent-accused was suspecting

the character of the victim. The victim had disclosed about it to the complainant. The accused was abusing and assaulting her on suspecting her character. The accused was visiting her office to find out the truth. On 12th August 2005 the victim had committed suicide by jumping in river. The dead body was found on 13th August 2005. The FIR was registered on 17th August 2005.

3. The charge was framed against the accused on 30th May 2006 under Sections 498A and 306 of Indian Penal Code.

4. The prosecution examined about 13 witnesses. On completion of evidence statement of accused was recorded u/s.313 of Cr.P.C. Learned Additional Sessions Judge acquitted the accused of both the charges.

5. The State of Maharashtra is aggrieved by the impugned judgment and order of acquittal and has preferred this appeal before this Court.

6. Learned APP submitted that incident of suicide has occurred on 12th August 2005 i.e. within a period of about five years from the date of marriage. The presumption under Section 113A of the Evidence Act is applicable in the present case. The evidence on record establishes that accused was suspecting character of the victim. On account of the abuses, threats, assault culminating into mental torture, the victim had taken step of committing suicide. The evidence on record discloses that victim was compelled/instigated/abetted to commit suicide. The witnesses examined by the prosecution corroborates the case of prosecution that there was

continuous harassment by accused to the victim. The evidence of the witnesses adduced by the prosecution discloses that the victim had apprised about the nature of harassment caused by the accused to the victim. It was deposed by the witnesses that the accused used to suspect her character even while she was found talking to security guard. The accused used to visit the office of deceased to find out the truth. The harassment was unbearable. The victim could not tolerate the fact that the accused was suspecting her character and in these circumstances she committed suicide. The harassment meted out to the accused also amounts to cruelty and thus the prosecution has adduced evidence to establish the charge under Section 498A of IPC. The Trial Court has drawn adverse inferences on the basis of fact that there was delay in lodging the FIR and that there was possibility that victim has committed suicide for different reasons. In the present case, the delay was insignificant. It was not inordinate. The witnesses supported the fact that on account of ill-treatment meted out to victim by respondent-accused, she committed suicide.

7. I have perused the judgment of Trial Court acquitting the respondent-accused as well as evidence adduced by the prosecution. The Trial Court has assigned cogent reasons on the basis of evidence on record and gave a finding that offences charged against the accused were not made out. I find that the findings of the Trial Court are in consonance with the evidence on record and it is not possible to over turn the decision of Trial Court.

8. It is pertinent to note that this Court is exercising appellate powers while dealing with the judgment of acquittal delivered by

Trial Court. Parameters for adjudicating an appeal against acquittal, the scope and approach to be adopted by Appellate Court, has been laid down in several decisions of Supreme Court and this Court and in consonance with settled principles of law, the judgment of Trial Court does not warrant interference.

9. Although the prosecution has examined several witnesses in support of its case, there is no cogent evidence to establish that on account of alleged harassment caused by the accused, the victim has committed suicide. The marriage was performed in 2000. They had a child out of the wedlock. There was no previous complaint about harassment caused by the accused. The evidence on record also depicts the fact that there was harassment to the victim at the place of her employment. News report was published that the victim had committed suicide on account of disturbance to her at the place of employment. The father of the victim in his evidence has admitted the fact that news item in that regard has appeared after the death of the victim. His evidence also discloses the fact that three days prior to the incident of suicide. He had obtained loan and the respondent-accused stood guarantor to the said loan. On the basis of said circumstance, the Trial Court had observed that in the event relationship between the victim and accused was not cordial, it would be difficult to accept that accused would stand guarantor to the loan obtained by father of victim. The prosecution has examined the caretaker who was working in the house, neighbour, the co-employee working with the victim. These witnesses do not corroborate the case of prosecution that victim has committed suicide on account of harassment by the respondent-accused. The caretaker was closely related to the victim and her relatives. The co-

employee is silent with regard to the allegation that accused was suspecting the character of the victim. It is pertinent to note that the said witness is deliberately silent about the fact that the news item had appeared in the news paper that the victim had committed suicide due to harassment at work place. The Trial Court had analyzed the evidence of all the witnesses and dealt with the version of witnesses and countered it by assigning cogent reasons for acquittal. Although the incident had occurred on 12th August 2005, the FIR was registered on 17th August 2005. The defense of the accused was that he never suspected the character of his wife. While giving explanation in the statement u/s.313 of Cr.PC, the accused has also taken defense that the victim was being harassed by superiors at the work place and that she had lodged complaint against superiors. She was under mental tension on account of atmosphere in her office. The accused has also stated that after the death of the victim community meeting was arranged. It was attended by both the sides and the villagers. While discussing the incident of suicide the persons who had attended the meeting had arrived at the conclusion that the victim had committed the suicide due to harassment at the work place. The complainant and others were present at the meeting, had signed the register in that regard which was placed on record and marked as Exhibit-17.

10. The prosecution examined 13 witnesses. PW-1 Sachin Pawar is complainant. PW-2 Suresh Pawar is father of victim. PW-3 Nilima Gamare is engaged to take care of child. PW-4 Sugat Gaikwad is watchman of building. PW-5 Sunetra Apte is co-employee of accused. PW-6 Lata Kamble is resident of building where accused and victim were residing. PW-7 Vishwas Kamble is rickshaw driver.

There was quarrel before him between accused and victim. PW-8 Tahir Kundalik had seen the victim jumping in river. PW-9 Ashok Kadam is uncle of deceased. PW-10 Ramchandra Shivde is panch. PW-11 Vilas Bhosale is Investigating Officer. PW-12 Shivprasad Dabholkar is the teacher. PW-13 Laxman Jadhav is Investigating Officer.

11. In paragraph 35 of the judgment of acquittal the Trial Court had observed that in the light of the factual matrix of the case, there could be two reasons for the death of the victim. PW-1 to 6 alleged that the victim had committed suicide on account of accused suspecting her character and the defence of the accused is that there was mental torture to her at the instance of her seniors at the work place. The Court made reference to Exhibit-17 referred to hereinabove, the complaints of the victim against her superiors. Considering these aspects, the Court then appreciated the evidence on record and gave a finding that accused cannot be held responsible for the death of victim. The accused cannot be said to have abetted the suicide of victim. Detailed reasons are assigned by the Trial Court in support of the finding of acquittal. The Trial Court has also referred to the evidence on record qua evidence of all the witnesses, assigned reasons for coming to the conclusion that the case u/s.498A and 306 of IPC has not been established against respondent-accused.

12. The evidence on record does not indicate that victim had expressed that she do not intend to continue with accused. Two months prior to incident, accused stood guarantor to loan of father of victim. Father of victim has stated that victim's grandmother had stayed with victim for four months and she had disclosed on return

that accused is suspecting victim's character. Grandmother Sagunabai is not examined. Witness Sachin Pawar in his cross-examination has admitted that accused and victim were visiting Sawarde, whenever they were coming to Chiplun. She was happy. The victim never stated that she is not willing to join her husband after visiting Sawarde. He admitted that both intended to live together happily. She never complained against accused during her visit to Sawarde. Her last rites were performed by accused. Witnesses Nilima has admitted that victim never told her that she do not want to cohabit with accused. Watchman Sugar Gaikwad has stated that victim did not tell him that accused is suspecting her character. Witness Sunetra Apte admitted that victim had never disclosed to her that she is not interested in cohabiting with accused. She had never seen accused visiting victim's office.

13. On perusal of the evidence and the reasoning of the Trial Court, it is not possible to take a different view of the matter. No case is made out to set aside the judgment of acquittal. Hence, I pass following order :

ORDER

(i) Criminal Appeal No.351 of 2009 is dismissed and stands disposed of.

(PRAKASH D. NAIK, J.)

MST