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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.86 OF 2009**

The State of Maharashtra	... Appellant
Vs.	
1. Satish Amrut Pavane	...
2. Smt. Chabubai Amrut Pavane	... Respondents

Ms. S. S. Kaushik APP for the Appellant-State.
Mr. Sushil A. Inamdar for the Respondent-accused.

CORAM : S. M. MODAK, J.

DATED : 14TH DECEMBER 2022.

P.C:-

1. Heard learned APP Ms. S.S. Kaushik for the Appellant-State and Shri Sushil Inamdar for Respondent No.2-accused-mother-in-law.
2. Learned Advocate has produced copy of the death certificate of Respondent No.1-Satish Pavane. He expired on 30th June 2022. It is taken on record and marked as Annexure "X". The Appeal against him stands dismissed. So it will continue only against Respondent No.2.
3. Both these Respondents were prosecuted in connection with the offence registered at the Yerwada police station on 15th April 2006. It was at the instance of one Rajebai Bandgar. She was mother of deceased Meena. Whereas Respondent No.1 – Satish Pavane is husband of deceased Meena and Respondent No.2 is mother-in-law of deceased. The marriage of deceased and Respondent No.1 was

performed on 2nd May 2005, at village Gore Matala Taluka Umarga, District Osmanabad. The first informant is residing at Mumbai. She works as maid servant. Her husband and son were residing at native place and her son is suffering from damage in kidney. The marriage was settled through one Suman Marne, who is Maternal Aunt of deceased Meena. Respondent No.1-husband used to run a canteen. Whereas Respondent No.2 mother in law used to sell vegetables.

4. The first informant received a call of deceased Meena on 13th April 2006. Meena died of burn injuries on 14th April 2006. She has put an end to life by pouring kerosene on herself. She was being harassed by the Respondents on account of bringing money from her mother and also for reason that she was having white patches on her legs. The Respondents have denied these allegations. The prosecution in all examined six witnesses. It consists of following :-

- (i) PW 1 Rajebai Bandgar, mother of deceased;
- (ii) PW 2 Dr. Dinesh Behere, Medical Officer to dying declaration;
- (iii) PW 3 Suman Madane, Maternal Aunt of deceased;
- (iv) PW 4 Smt. Mubarak Mujawar, neighbor of deceased;
- (v) PW 5 Ramchandra Shitole, PI who recorded FIR; and
- (vi) PW 6 PSI Gorakhnath Naikwadi, Investigating Officer.

5. Though there is dying declaration recorded on 14th April 2006. The prosecution have examined Dr. Behere, who had give endorsement about fitness of patient. The Police Officer Shri Gaud, who has recorded said dying declaration was not examined. The Medical Officer can only tell about fitness of patient, even though he has heard about what deceased has said. It is not expected from him

to depose these facts. So, it is only police officer who has recorded it, is expected to tell those facts. So this dying declaration is not of any help to prosecution and it has rightly been discarded by the trial Court.

6. On perusal of the judgment of the trial Court, it is very clear that evidence has been appreciated in great detail. The trial Court has rightly discarded evidence of neighbor Mujawar. She was knowing about dispute of deceased on one hand and the Respondents on other hand. Rajebai, mother of deceased used to call Mujawar and then witness Mujawar used to call deceased and then there used to be interaction between Rajebai and deceased. During cross examination, she has stated that nobody used to remain present when there was interaction between deceased and her mother.

7. The trial Court has observed about inconsistency in between evidence of mother Rajebai, on one hand and Maternal Aunt Suman on the other hand. The trial Court has disbelieved totally evidence of other witness against both the Respondents. Their evidence is perused only for considering whether the findings against Respondent No.2 are correct or not. When this Court has perused evidence of two witnesses and findings thereon, it finds that there are no specific allegations against mother-in-law. Whatever allegations are there, they are general in nature, without attributing any specific role to either of accused.

8. Learned APP and learned Advocate for Respondent-accused has taken me through minute details and their evidence and

corresponding findings. After perusing them, I agree with submissions of learned Advocate Mr. Inamdar that there are no specific allegations against Respondent No.2.

9. He relied upon judgment reported in case of ***State of Rajasthan Vs. Kistoora Ram*** reported in ***2022 Live Law (SC) 663***, wherein the Hon'ble Supreme Court has discussed what is scope of Appeal when there is judgment of acquittal. It cannot be reversed, if the view taken is a possible view and there is no perversity. Merely because the two views are possible, the judgment of acquittal cannot be interfered with (para 8). The ratio is perfectly applicable to present case. I do not find that the trial Court has misread evidence and wrongly appreciated it. So there is no scope for interference. Hence, the Appeal is dismissed.

(S. M. MODAK, J.)