

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

**CRIMINAL APPEAL NO.1483 OF 2019**

Kiran Borhade

.... Appellant

versus

State of Maharashtra & Ors.

.... Respondents

.....

- Mr. Virendra V. Pethe, Advocate for Appellant.
- Mr. Yogesh Y. Dabke, APP for the State/Respondent.
- Mr. S. S. Panchpor a/w Mr. Ashwin A. Borhade, Advocate for Respondent Nos.2 to 8.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 20<sup>th</sup> SEPTEMBER, 2022**

**P.C. :**

1. This Appeal is filed by the son of the deceased challenging the Judgment and Order dated 30/07/2019 passed by the Additional Sessions Judge, Khed-Rajgurunagar, District Pune, in Sessions Case No.329 of 2014, thereby acquitting the Respondent Nos.2 to 8. The prosecution case is that the victim's family and the Respondent Nos.2 to 8 were residing in the same locality. The Respondent No.8 was under the impression that the Appellant's father deceased Harishchandra Borhade had spread

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rumours about Respondent No.8's affair with the Respondent No.5 and therefore Harishchandra was threatened and assaulted on 07/07/2013. Being humiliated and being under pressure Harishchandra committed suicide on 08/07/2013 by hanging himself. Thereafter the Appellant herein lodged his FIR. The investigation was carried out and the Respondent Nos.2 to 8 faced the trial for commission of offence punishable u/s 143, 306 , 323, 504, 506 r/w 34 of the Indian Penal Code.

2. During trial the prosecution examined four witnesses. The first-informant was P.W.1 Kiran Harishchandra Borhade, but he had not seen the actual assault on the deceased. P.W.2 Chintaman Borhade was the brother of the deceased, but he had turned hostile. P.W.3 Sunita Harishchandra Borhade was the widow of the deceased and P.W.4 Baban Rambhau Borhade was an independent witness. At the conclusion of the trial, the learned Judge acquitted the Respondent Nos.2 to 8 from all the charges.

3. Heard Mr. Virendra V. Pethe, learned counsel for the Appellant, Mr. S. S. Panchpor, learned counsel for Respondent Nos.2 to 8 and Mr. Yogesh Y. Dabke, learned APP for the State.
4. Learned counsel for the Appellant submitted that though he is not seriously challenging the acquittal for commission of offence punishable u/s 306 of the IPC, however, Court may consider evidence regarding other offences. The learned trial Judge has not considered the assault committed on the deceased inviting the charges u/s 323, 504, 506 r/w 143 of the IPC and there is no discussion regarding that aspect and therefore to that extent conviction is not correct.
5. Learned counsel for the Respondent Nos.2 and 8 opposed these submissions. They supported the impugned judgment.
6. I have considered these submissions and I have perused the evidence as well as the discussion made by the learned Judge in his impugned judgment and order. Learned counsel for the Appellant produced post-mortem notes of the deceased. The

post-mortem examination was conducted on 08/07/2013. The alleged incident of assault was on 07/07/2013. As per the allegations of PW.4 as well as PW.1 there was a bleeding injury between the eyebrows of the deceased. That injury is not reflected in the post-mortem notes. Apart from that, the learned Judge has discussed in paragraph No.30 that neither deceased nor the Appellant had approached any villager or police regarding the assault which had taken place on 07/07/2013. While concluding, in paragraph No.35, the learned Judge has rightly observed that the prosecution has failed to prove that the accused had instigated the deceased to commit suicide. Therefore section 306 of IPC is not made out.

7. Considering this discussion, I do not see perversity in the impugned judgment and order. The view taken by the learned Judge is a possible view. Therefore the Appeal is dismissed at the admission stage itself.

**(SARANG V. KOTWAL, J.)**