

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO.65 OF 2021

(Satyabhama Wd/o Ramprasad Nakashe .**Vs.** Bhushan Govind Ramteke
and Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. H. A. Khedikar, Advocate for Appellant.
Shri. P. S. Wathore, Advocate for the Respondent Nos.1 to 8.
Shri. N. S. Rao, APP for Respondent No.9.

CORAM : AVINASH G. GHAROTE, J.

DATE : 21st JUNE, 2022.

1. Heard Mr. Khedikar, learned Counsel for Appellant and Mr. Wathore, learned Counsel for the Respondent Nos.1 to 8.

2. The appeal challenges the judgment dated 29.04.2017, by which the Respondents/Accused have been acquitted of the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. Mr. Khedikar, learned Counsel for appellant submits, that the learned Sessions Court did not appreciate the evidence of PW-1 Satyabhama and PW-5 Indrayani, who according to him, are the prime witnesses in their proper perspective, which has resulted in the acquittal of the accused. He further submits, that there were as many as three incidences dated 26.08.2013, 29.08.2013 and 08.09.2013, on which, the accused had assaulted the deceased Pankaj, which is the reason, why the deceased took his own life by hanging

himself on 11.09.2013. It is his contention, that this has also been ignored by the learned Sessions Court resulting in miscarriage of justice. He therefore submits, that the impugned judgment is required to be quashed and set aside and the Respondents need to be convicted for the aforesaid offence.

4. Mr. Wathore, learned Counsel for the Respondent Nos.1 to 8, supports the judgment and submits, that the judgment considers each and every aspect of the matter. The alleged incidences of assault on which reliance has been placed are not proved. There is no complaint whatsoever made by the deceased in respect of the alleged incidences of assault, as a result of which, the finding rendered that these have not been proved, stand to reason. The learned Additional Public Prosecutor supports the impugned judgment.

5. The incident is dated 11.09.2013, when the deceased Pankaj, went inside his room, locked the door from inside and hung himself, as a result of which, he lost his life. PW-1 Satyabhama Nakashe the mother of the deceased was present in the house at that time and so also was PW-5 Indrayani the sister of the deceased. At about 1.30 p.m., when PW-1 Satyabhama had prepared tea and went to wake-up the deceased Pankaj by knocking the door, there was no response. She called him twice-thrice and continued to knock, still there was no response, whereupon she went behind and peeped from the rear window, and she found him hanging by

means of Saree tied to the ceiling fan. The neighbors were called, the door was broken and the incident was informed by her by mobile phone to her son Rajesh PW-2 and son-in-law Shashikant Bhoyar PW-9, who informed the police. A suicide-note is claimed to have been found on the table in the room, where the deceased Pankaj passed away. The post mortem report indicates the death in consonance with hanging.

6. Though, it is alleged that the deceased Pankaj operated the ATM card of Govindrao Ramteke, the father of the accused no.1 and took the amount of Rs.7,00,000/- therefrom, on account of which, the deceased was assaulted on different dates i.e. on 26.08.2013, 29.08.2013 and 08.09.2013, there is admittedly not a single complaint lodged by the deceased in this regard. Nothing about the assaults has been brought on record by the prosecution. None of the prosecution witnesses examined and deposed, that they were witnesses to these assaults except as indicated and discussed hereinafter. The above is the only reason, why the needle of suspicion has been thrown upon the accused persons.

7. With the assistance of the learned Counsels, I have perused the entire record including the evidence and the suicide-note at Exh-118.

8. PW-1 Satyabhama Nakashe (mother of the deceased), who was present in the house on the date of

the incident, has narrated the incident. She also speaks about the police finding a suicide-note (Exh-118) from the spot. What is material to note, is that PW-1 Satyabhama in her chief speaks about Pramodini alias Mahi, the wife of the deceased Pankaj, having packed her belongings on 21.08.2013, in order to live independently and separately, as there was quarrel between her and the deceased Pankaj on account of PW-1 Satyabhama jointly residing with them. Though she narrates, that the deceased had told her that the accused No.1 Bhushan, had on account of non-repayment of the amount of Rs.7,00,000/- had assaulted him on three occasions, that is only hearsay evidence, as the PW-1, was admittedly never present on any such occasion, which is equally true for PW-5 Indrayani also. There is no other independent witness, who speaks about these alleged incidences of assault, as claimed by PW-1 and PW-5 except to the extent as discussed hereinafter. In the cross-examination, PW-1 states that she had lost her senses before the arrival of her son-in-law and even after his departure to the Police Station.

9. PW-2 Rajesh speaks about assault by way of a slap by the accused No.1 Bhushan to the deceased Pankaj on 26.08.2013 at about 7.00 p.m. on account of his inability to repay the amount of Rs.7,00,000/-, which he had taken from the ATM of Govindrao, the father of Bhushan. Though, he claims himself to be elder brother of the deceased Pankaj, he admits in his cross-examination that Ramprasad Nakashe was not his father.

He does not elaborate on his relationship with Pankaj. He further admits, that no complaint whatsoever was lodged by either himself or by the deceased Pankaj in respect of the alleged incidences of assault claimed to have been made by the accused. Though he claims that on 26.08.2013 when he alongwith PW-1 Satyabhama reached the residence of Bhushan Ramteke (Respondent No.1) and saw Parigh Gajbhiye (Respondent No.3), Paras Gajbhiye (Respondent No.2), Mate's wife and Bhushan Ramteke's sister, Prashant Ramteke, Govind Ramteke and his wife sitting there, he does not attribute anything to these persons, except a slap to Pankaj by Bhushan Ramteke. Though PW-1 Satyabhama attributes threats to Paras Gajbhiye, Gyaniram Mate (Page 51) and to Bhushan's mother and sister, PW-2 Rajesh who was with her at that time does not say so. The evidence of PW-9 Shashikant Bhoyar is also in consonance with what is spoken by PW-2 Rajesh, in respect of the incident dated 26.08.2013, except that PW-9 attributes a threat being given by Bhushan to Pankaj.

10. PW-3 is the witness to the panchanama Exh-70.

11. PW-4 Prashant Ramteke though states that on 26.08.2013, he had been to the residence of accused No.1 Bhushan, he however contradicts the statement of PW-2 Rajesh regarding any assault upon Pankaj.

12. PW-5 Indrayani, the sister of the deceased Pankaj, also admits, that she has never seen any assault by the

accused persons to Pankaj on the various occasions which are claimed. She however claims, that the suicide-note was found on the dressing table in the room, where the deceased had hung himself. She also admits to have knowledge, that the deceased Pankaj had withdrawn the amount of Rs.7,00,000/- from the ATM of his father-in-law Govindrao.

13. PW-6 Ravikant Chauhan is the witness to the seizure of the notebook, in which the suicide note was written, which is at Exh-82. PW-7 Ayub Patel is the witness to the spot panchanama at Exh-89. PW-8 Dr. Kiran Kanire Medical Officer is the person, who has performed the post mortem and given the post mortem report at Exh-95. PW-9 Shashikant Bhoyar is the brother-in-law of Pankaj and claims to be witness to the incident dated 26.08.2013, when the accused No.1 is alleged to have slapped the deceased Pankaj on account of demanding back the money, which he had withdrawn from the ATM of Govindrao. PW-10 Hitesh Kodape is the witness to the spot panchanama at Exh-88 to the panchanama of the dead body at Exh-87 and to the seizure Exh-89. PW-11 is the handwriting expert, who has been examined for the purpose of verifying the handwriting on the suicide-note at Exh-118 to be that of Pankaj. PW-12 Sachin Gore is the SDPO, who has investigated the crime.

14. Perusal of the evidence led before the learned Sessions Court would indicate, that except that the

accused No.1 Bhushan, had given a slap to the deceased Pankaj on 26.08.2013, which is on account of the deceased Pankaj not returning the amount of Rs.7,00,000/-, which he had withdrawn from the ATM of Govindrao his father-in-law (father of the accused No.1 Bhushan), there is nothing on record to indicate that the deceased Pankaj had time and again been assaulted by the accused persons as claimed by PW-1 and PW-5. PW-1 and PW-5, have never been witnesses to any of such incidences. That apart, what is also material to note is, that though the deceased Pankaj, was very much in love with his wife Pramodini alias Mahi, PW-1 Satyabhama admits that on 21.08.2013, the said Mahi, the wife of the deceased had already packed her belongings in order to live independently and separately, which was on account of quarrel in between her and the deceased Pankaj on account of PW-1 jointly residing with them. Even presuming that the suicide-note (Exh-118) was written by the deceased Pankaj, a perusal of the same, would indicate that he had absolved the accused No.1 Bhushan and his family of anything to do with his suicide. It also indicates, that he was greatly disturbed by the fact that Mahi his wife, was leaving him. That apart, it also speaks about his wife having deceived him, in the matter of disclosure of some amounts as is indicated from a perusal of Page No.3 of Exh-118. It is also material to note, that the suicide-note at Exh-118 speaks about Prashant Ramteke, Surendra Waghmare, however, they have not been arrayed as accused. Conspectus of the entire material available on

record, which comprises of the evidence of the witnesses, who have deposed before the learned Trial Court as well as, a perusal of Exh-118 would indicate, that the accused persons, had no role to play in the alleged suicide by the deceased Pankaj as what is alleged, is a single slap by Bhushan accused No.1 administered to the deceased Pankaj on account of the deceased having taken the amount of Rs.7,00,000/- from the ATM of Govindrao.

15. The time lag between the alleged incident dated 26.08.2013 when accused No.1 Bhushan is claimed to have slapped the deceased and the date of demise which is 11.09.2013, is also significant and material to dislodge the claim of the accused persons having any nexus with the demise of the deceased Pankaj. What has also come on record is, that the wife of the deceased Pankaj, was going to leave him to reside separately.

16. It has also come on record, that under Exhs-62 to 63, the deceased Pankaj had taken loan from India Infoline Pvt. Ltd. Bhandara, which was unpaid.

17. It has also come on record, that in October-2013, a complaint was lodged against the deceased Pankaj alleging, that he had collected money from Manoj Ingle, Omprakash Panchbudhe, Suryabhan Wadhawe, Hirendra Mandre, Dipak Bankar and Hemraj Wadke under the pretext that he will give the employment, which complaint was pending on the fateful day.

18. No specific role of any nature is attributed to the other accused persons, except for some of them being present on 26.08.2013 when the accused No.1, Bhushan (brother-in-law of Pankaj the deceased) is claimed to have slapped Pankaj.

19. It is, thus, apparent that there is no material on record, to indicate the satisfaction of the requirements of Section 107 of the Indian Penal Code, which speaks about abatement, at the hands of the accused persons in the suicide of the deceased Pankaj, considering which, I do not see any reason to interfere in the impugned judgment. The criminal appeal is, therefore, devoid of any merits and the same is **dismissed**.

JUDGE

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