

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

912 CRIMINAL APPEAL NO.194 OF 2020

X Y Z
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Appellant : Mr.Shivaji T. Shelke
APP for Respondent No.1 : Mr.R.V.Dasalkar

...

**CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.**

DATE : 17th February, 2023

ORDER :-

1. Present appeal has been filed by father of the deceased, who can be termed as victim under Section 2(wa) of Code of Criminal Procedure, under Proviso to Section 372 to challenge the acquittal of respondent no.2 by learned Additional Sessions Judge, Dhule in Sessions Case No.10 of 2018 from offence punishable under Section 305 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences (POCSO) Act.

2. Heard learned Advocate for the appellant and learned APP for respondent No.1.

3. With the able assistance of learned Advocate for the

appellant and learned APP for respondent No.1, we have gone through the evidence, which was before the learned trial Judge.

4. Unfortunately, a minor girl has committed suicide on 07-09-2017. She was the daughter of present appellant and niece of PW1 informant. It appears that it was not disputed fact that girl had committed suicide by hanging and therefore, the testimony of PW2 Pancha witness to seizure of clothes of the deceased is not having much importance. According to PW1 and PW4, present respondent No.2 was harassing the deceased and because of said harassment amounting to abetment deceased has committed suicide. Even PW5, who was the then Sarpancha of the village has stated that 5 to 6 persons had come to him with a request to give understanding to respondent no.2. The testimony of all these three witnesses would show that they were not disclosing exact conversation between accused and deceased or on what count accused wanted to defame her or what was the threat that he was allegedly giving. Even the father had stated that the accused was defaming his daughter but then he has not explained on what count the defamation was made. The evidence appears to be too vague and there is no proper investigation also on that count.

5. The Investigating Officer as well as the Medical Officer, who conducted the autopsy, though confirming the fact about suicide, the cross-examination of the Investigating Officer would show that he had made enquiry with the friends of the deceased as well as in her School but then he has not reduced those statements into writing under Section 161 of the Code of Criminal Procedure nor the prosecution had taken pains to examine those persons by resorting to Section 311 of the Code of Criminal Procedure. The analysis of evidence has been properly done by the learned Additional Sessions Judge, Dhule and we do not find any illegality or error for interference. There is no merit in the present appeal. It deserves to be dismissed at the threshold. Hence, it is dismissed at the admissions stage.

(ABHAY S. WAGHWASE)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE