

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

**902 CRIMINAL APPEAL NO.265 OF 2023
MAYA BHAUSAHEB KHARAT AND ANOTHER
VS
STATE OF MAHARASHTRA AND ANOTHER**

Mr. Sudarshan J. Salunke, Advocate for the appellants
Mr. Y. G. Gujrathi, APP for the respondents/State
Mrs. Sunita Sonwane, Advocate for the respondent
No.2(appointed)

**AND
CRIMINAL APPEAL NO. 228 OF 2023
MARUTI BAPURAO SALUNKE
VS
STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. S. Shinde, Advocate for the appellant
Mr. Y. G. Gujrathi, APP for the respondents/State
Mrs. Sunita Sonwane, Advocate for the respondent
No.2(appointed)

CORAM : KISHORE C. SANT, J.

DATE : 21st APRIL, 2023

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1. Heard the learned advocates for the parties.
2. Both the appeals are arising out of the same crime
and in both the appeals prayer is for release of appellants on

bail.

3. In both the matters the appellants are arrested on 24-02-2023 in connection with FIR No. 0106 dated 24-02-2023 registered at Taluka Police Station, Jalna for the offences punishable under Sections 306, 354, 498-A, 323, 504, 506, read with Section 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Therefore, both the appeals are taken up together.

4. Admit.

5. These appeals are taken up for hearing forthwith by consent of the parties.

6. Informant Sheetal-respondent No.2 lodged the FIR. Allegations are that her daughter Pallavi was married in May,

2022 to Harshwardhan Kharat. He was in service and therefore, couple went to reside at Jalna. In said building there was one person namely Maroti-appellant in Appeal No. 228 of 2023 belonging to upper caste outraged the modesty of the Pallavi on 14-02-2023 saying that she belongs to scheduled castes and outraged her modesty. He also threatened her not to disclose the incident to any one. The deceased therefore, asked her husband Harshvardhan and father-in-law to go and talk to Maroti as to how he dare to do such things with her. On that instead of asking Maroti they told the Pallavi not to disclose it otherwise their image would be defamed in the society and also asked her not to talk even if her modesty is outraged. The deceased therefore, informed the incident to her parents. The parents therefore, went to ask Maroti about the said incident. On asking about this to the husband of Pallavi he said that he would ask Maroti after he comes back. The deceased was therefore unhappy because of the conduct of the in-laws.

7. It is further alleged that appellant No.1 Maya came to

Jalna on 21-02-2023 and made a demand of Rs.25,000/- for starting beauty parlor saying that her daughter is earning by running beauty parlor why Pallavi should not do the same. In the evening when Pallavi had been for evening walk she came late at Home. On that Maya suspected her character. As per further allegations on 23-02-2023 the husband, deceased and the appellants went to Maroti to ask him as to why he has behaved in such manner with Pallavi. On that Maroti said that in fact she was trying to attract him and insulted the deceased. It is alleged that therefore, the deceased committed suicide on 24-02-2023. Immediately on coming to know of the incident, the FIR came to be lodged and the present appellants came to be arrested.

8. The appellants in Appeal No. 265/2023 filed bail application No. 229/2023 in the court of Additional Sessions Judge, Jalna. The appellant in Appeal No. 228/2023 also filed an application for bail bearing Bail Application No. 207/2023. The application No.229/2023 came to be decided on 14-03-

2023 and the application No. 207/2023 came to be decided on 04-03-2023. The parties are therefore this court seeking their release on bail.

9. Mr. Salunke, learned advocate for the appellant in appeal No. 265 of 2023 submits that sections under Atrocities Act are not attracted in his case as the parents in-law of the deceased belongs to the same caste i.e. scheduled castes. So far as the offence under other section 498-A is concerned there is no allegation under any of the offences lodged in the FIR. So far as the section 306 is concerned he submits that there is no question of abatement to commit suicide. All the while allegations of the deceased was that the appellants are not taking any action against Maroti. Not taking action pursuant to her complaint cannot be said to be an abatement. He submits that at the most it can be said to be against Maroti is as per the allegations the deceased committed suicide because of insult at the hands of Maroti. So far as section 498-A is concerned, he submits that the demand is not for dowry by taking allegations as it is demand is

not for dowry but was for starting beauty parlor for deceased herself and it cannot be said to be a dowry and thus no case is made out against the appellants and prays for release them on bail.

10. Learned advocate for the appellant in appeal No. 228/2023 submits that against the appellant mainly there are allegations under Atrocities Act and IPC. He submits that there is no question of section 498-A against appellant. There is also no question of adding section 34 against appellant. He further submits that first alleged incident was of 14-02-2023. The parents of the deceased had been to his house on 18-02-2023. Till then no complaint was filed. Thus, it is clear that in fact incident dated 14-02-2023 was not serious one. About incident dated 23-02-2023 is concerned it cannot be said to be an abatement to commit suicide. In any case mere insult cannot be said to be an abatement to commit suicide. He further submits that since 24-02-2023 the appellant is in jail no purpose would be served by keeping him in jail. Investigation is practically

complete and for this reason also his appeal deserves to be allowed.

11. Learned APP vehemently opposed both the appeals. He submits that there is a serious incident. The deceased was staying with her husband and in-laws of the husband. They have failed to protect her honour and dignity. Taking the nature of the offences as it is, it is natural for any self respected woman to take all the things seriously. It is because of their inaction in taking action against Maroti the deceased felt depressed and she committed suicide. Therefore inaction of the appellants clearly amounts to an abatement.

12. The learned advocate appointed through Legal Aid to represent respondent No.2 submits that the victim was newly married girl only of 19 years of age and naturally was sensitive. When she felt unsafe with the in-laws because of inaction, she felt insulted and humiliated by Maroti. Still all the in-laws were mute and did not show any courage to take action against him.

In such circumstances, any woman would feel that her survival is difficult. So far as Maroti is concerned she submits that he had not only outraged the modesty by words, gesture but he committed the same by inappropriately touching her body. Maroti behaved arrogantly with in-laws. She also submits that marriage had taken place in May, 2022. This incident is taken place immediately within 9-10 months and with the aid of section 113-A certainly an offence is made out for dowry death. She opposed the appeals saying that this is not a proper case to grant bail.

13. This court finds that certainly an offence is made out against the appellants at least against appellant Maroti under Section 354 and under Atrocities Act. From his conduct it is seen that he behaved arrogantly with the deceased and with her in-laws. So far as the appellant Maya and Bhausaheb certainly they cannot be prosecuted for the offences under the Atrocities Act. However their action cannot be said to be amounting to abatement to commit suicide. So called demand is a demand for

starting beauty parlor for the deceased and not towards dowry. There is no allegation that dowry was demanded at the time of marriage. The alleged demand cannot be said to be a demand of dowry.

14. This court finds that as per the allegations death is not under suspicious circumstances but it is clearly suicidal because of alleged incident. Therefore section 113-A will not have any application. So far as Section 498-A is concerned as observed prima facie demand in this case will not amount to demand of dowry. About Maroti this court finds that no doubt offence is made out against him. However, taking into consideration the facts that all the appellants are arrested on 24-02-2023 and since they are in jail, this court finds that further custody of the appellants in both the appeals will not serve any purpose as the investigation is practically complete. All the appellants can be released on bail by imposing certain conditions. Hence, the following order.

ORDER

- a] The appeals stand allowed.
- b] The appellants be released on bail on furnishing PR bond of Rs.15,000/- [Rupees Fifteen Thousand] each with one solvent surety in the like amount on the following conditions:
- i] The appellants shall not tamper with the evidence.
 - ii] The appellants shall not try to contact any of the witnesses.
 - iii] The appellants shall attend the police station as and when called by the Investigating Officer.
 - iv] The appellants shall cooperate in the investigation.
- c] Learned advocate for respondent No.2 is appointed through Legal Aid. Her fees is quantified Rs. 7,500/- each for the services she has rendered to this court.

[KISHORE C. SANT, J.]