

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

CRIMINAL REVISION APPLICATION NO.359 OF 2005

Nagesh S/o Murlidhar Kulkarni,
Age : 49 Years, Occ. Service,
R/o. Vidya Colony, Bhagwannagar,
Manikdaundi Road, Pathardi,
District Ahmednagar.

... Applicant
(Orig. Complainant)

V E R S U S

1. The State of Maharashtra,
2. Moreshwar @ Ramesh Sakharam
Deshpande Age : 30 Years,
3. Vilas Sakharam Deshpande,
Age : 30 Years
4. Shakuntala Sakharam Deshpande
Age : 30 Years,
5. Nima @ Pranita Vilas Deshpande,
Age : 30 Years
All resident Ambilwadi Taluka and
District Ahmednagar.
6. Asha @ Vidya Vijay Kavale,
Age : 42 Years R/o. Iale Galli,
Maliwada, Ahmednagar.
7. Usha Nitin Ramdasi,
Age : 26 Years,
R/o. Akluj Tal. Malshiras,
Dist. Solapur

.. Respondents
(Ori. Accused)

...

Advocate for Applicant : Mr. D R Jayabhar
APP for Respondent No.1: Mr. S. P. Deshmukh
Advocate for respondent Nos. 2 to 7 : Mr. S. S. Jadhav

....

CORAM : S. G. MEHARE, J.

DATE : 12.06.2023

JUDGMENT :

1. Heard the learned counsel for the applicant and learned A.PP for respondent No.1 State and learned counsel for respondent Nos. 2 to 7.

2. The complainant has impugned the judgment and order of learned 3rd Ad-hoc Additional Sessions Judge, Ahmednagar, passed in Sessions Case No. 118 of 2005, dated 5.10.2005, whereby all the accused were acquitted.

3. The learned counsel for the applicant would submit that the Medical Officer had signed the first statement as to the cause of death in his chamber. Therefore, the learned Additional Sessions Court ought to have disbelieved her dying declaration as there was no evidence that she was in a conscious state of mind to give the statement. He further argued that the deceased was illiterate, and therefore the accused convinced her to give the statement that it was an accident caused due to the kerosene lamp falling on her person as the cat jumped on the plank where the kerosene lamp was kept. He would also argue that the deceased was ill-treated for dowry. All these

material aspects have not been considered. The evidence of the parents had been totally ignored. The incident happened within three years of the marriage. Therefore, the legal presumptions were attracted, but those were not considered. The impugned judgment and order is apparently erroneous on its face, and the judgment is liable to be set aside, and all the accused are liable to be convicted.

4. The learned counsel for the accused would argue that two consecutive statements of the deceased as to the cause of her death were consistent. There was nothing to disbelieve her statements. The report was lodged after the death of the deceased. The accused/ husband took her to the hospital, so his conduct was natural. He did not flee away from the spot of the incident. She was never ill-treated. There were no complaints of demand for dowry or ill-treatment till the incident happened. The impugned judgment and order is legal, proper and correct. Therefore, there is no substance in the revision.

5. It was unfortunate that a newly married woman lost her life in an accident within three years of her marriage. However, as usual, the parents started making the allegations after the death of their daughter. The investigating officer immediately recorded her statement, and subsequently, the Executive Magistrate also recorded her statement under Section 32 of the Evidence Act. The victim was

consistent in her statement that the electric power was off on the day of the incident. Hence, she lit the kerosene lamp and kept it on the plank. The cat jumped on the said plank. Therefore, the lamp fell on her person, and her saree caught fire. She stated that her husband brought her to the hospital. The learned Additional Sessions Judge believed the two consistent statements as regards the cause of her death and held that it was an accidental death. There were no circumstances to raise suspicion over her statement as to the cause of death. The conduct of the husband taking the deceased immediately to the hospital is one more circumstance that goes to show that he did not flee away or not tried to disappear the evidence. After going through the judgment and findings recorded by the learned Additional Sessions Judge, Ahmednagar, the Court did not find infirmity in its judgment and order.

6. It has been correctly held that it was an accidental death of the deceased. There was no evidence to believe that the accused demanded the dowry and ill-treated the deceased. The impugned judgment and order is free from error and illegality. There is no substance in the petition; hence it deserves to be dismissed.

ORDER

(i) The Criminal Revision Application stands dismissed.

- (ii) Record and proceedings be sent back to the Court of Learned 3rd Adhoc Additional Sessions Judge, Ahmednagar.
- (iii) Rule stands discharged.

(S. G. MEHARE)
JUDGE

ysk