



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 631 OF 2022

Samarathsen @ Balaji Maruti Pethe,
Age : 53 years, Occu. : Service,
R/o. Gavsud, Tq. and Dist. Osmanabad
At present Kudali, Sindhudurg,
Dist. Sindhudurg.

... Appellant
(Orig. Informant)

Versus

1. The State of Maharashtra,
The Police Inspector,
Rural Police Station, Osmanabad,
Tq. and Dist. Osmanabad.
2. Lahu Madhav Mane,
Age : 54 years, Occu. : Service,
R/o. Tambori Village,
Osmanabad, Tq. and Dist. Osmanabad.
3. Ravi Rajkumavat Gawali,
Age : 30 years, Occu. Agri.,
R/o. As above.

... Respondents.
(Resp. Nos.2 and 3
are orig. accused
Nos.1 and 2)

WITH

CRIMINAL APPEAL NO. 944 OF 2023

The State of Maharashtra,
Through: Rural Police Station,
Osmanabad Tq. & Dis. Osmanabad

... Appellant

Versus

1. Lahu Madhav Mane,
Age: 44 years,
R/o: Tambri Vibhag, Osmanabad,
T'q & Dist. Osmanabad.

2. Ravi Rajkumar Gavali,
Age: 20 years, Occu: Labour,
R/o: Tambri Vibhag, Osmanabad,
Tq & Dist. Osrnabad.
3. Prakash @Lakhan Nagesh Salunke
(Died. Case is abated against him)

... Respondents.
(Orig. Accused)

...

Mr. Angad L. Kanade, Advocate for Appellant in APEAL/631/2022 and
for Respondent No. 4 in APEAL/944/2023

Mr. A. M. Phule, APP for Respondent - State in APEAL/631/2022 and
Appellant in APEAL/944/2023

Mr. A. N. Sabnis, Advocate for Respondent No.1 in APEAL/944/2023
Mr. Estling S. Murge, Advocate for Respondent No.2 in APEAL/944/2023

...

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

DATED : 19th OCTOBER, 2023

JUDGMENT (PER ABHAY S. WAGHWASE, J.) :

1. Original informant is questioning judgment and order dated 10.05.2022 passed by Additional Sessions Judge, Osmanabad in Special (Atrocity) Case No. 04 of 2015 (Old Sessions Case No.139 of 2013), by which present respondent nos.2 and 3 stood acquitted from charges under sections 306, 504 and 506 read with section 34 of Indian Penal Code (IPC) and under sections 3(1)(x) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "Atrocities Act").

2. Appraising us about the nature of charge, learned counsel for appellant would submit that, appellant - informant is

uncle of victim. That, victim was undertaking education in Government Polytechnic College, Osmanabad, and was residing in hostel. Accused nos.2 and 3 were his colleagues, whereas accused no.1 was their teacher. According to prosecution, accused persons mentally harassed victim and deliberately and intentionally accused nos.2 and 3 used to beat him. In spite of giving undertaking, they did not mend their ways. Therefore report was filed. Accused no.1 Professor was upset for filing report and he was pressurizing victim to withdraw the report. That, victim promptly informed treatment meted out to him by accused persons to his family members. According to learned counsel for the appellant, mental harassment and torture of such aggravated form that only because of the same, victim hanged himself. It is pointed out that, there is a suicide note naming accused to be responsible for the suicide. Accused were named in the FIR and after investigation, finding sufficient material, they were duly charge sheeted. They had abetted the suicide and are solely responsible for the death of the victim. Further it is submitted that, accused persons knew that the victim was belonging to scheduled caste. According to learned counsel, all ingredients for attracting offence both of IPC as well as Atrocities Act were available in the evidence, but learned trial court has acquitted respondents without assigning proper reason. It is his submission that, there is non appreciation of evidence on

record and the legal position, and therefore, present appeal has been filed.

3. Learned APP supported those points in appeal filed by prosecution.

4. In the light of above submissions, we have gone through the record. It seems that, in support of its case, prosecution had examined 12 witnesses. Their status and role is as under :-

PW1 Dr.Sachin Ramdhare is the autopsy doctor, who conducted post mortem on body of deceased and issued post mortem report at Exh.50.

PW2 Kaka Bhagwat is a pancha to seizure of suicide note at Exh.52.

PW3 Amar Shaikh is also a pancha to seizure of suicide note at Exh.52.

PW4 Pandurang is a pancha to seizure of mobile handset of informant at Exh.57.

PW5 Harischandra is also a pancha to seizure of mobile handset of informant at Exh.57.

PW6 Samarthsen is the first informant. His statement is at Exh.59.

PW7 Gulab is father of the victim. His statement is at

Exh.67.

PW8 Omkarna is a real brother of victim. His statement is at Exh.71.

PW9 Santosh deposed that he was knowing victim and claims that prior to 8 days of committing suicide, victim met him and informed that accused no. 1 pressurized and threatened to rusticate and fail victim to withdraw the case filed against accused Nos. 2 and 3.

PW10 P.I. Sunilkumar Pujari; **PW11** Sanjay Suryawanshi and **PW12** API Rajkumar Khadke are the police officials and Investigating Officer.

5. It seems that, deceased is son of Gulab Pethe. Deceased seems to be student of Polytechnic College, Osmanabad. Informant is the uncle of deceased. The sum and substance of the report is that, there was harassment and torture by accused persons. That, he was deliberately targeted, scolded and even rusticated during exams on false accusations. Deceased used to inform his father as well as his uncle. They used to give understanding to both accused as well as deceased. According to informant, on 14.07.2011 deceased called informant that he is humiliated, insulted branded as a insane person. That, accused were pressurizing him to withdraw the report filed against Ravi Gavali and Salunke. Getting fed up of the same, his nephew committed suicide.

6. Record shows that, Adesh had committed suicide while he was at his parent's place. Therefore, apparently suicide is committed while in custody of parents who are residents of Sindhudurg. Evidence and record does not show since when deceased was with his parents. Accused are residents of Osmanabad. There is no material suggesting contact between present respondent nos.2 and 3 and deceased in proximity to suicide dated 17.04.2011. Alleged suicide note which is in computerized form is shown to be seized on 28.04.2011. Learned counsel for appellant could not point out in whose exclusive possession, ownership or use was the said computer on which note was typed and its print out obtained. Suicide note does not carry either date or signature of deceased. Therefore, such suicide note cannot be straightaway relied.

7. There are accusations of pressurizing for withdrawal of a report allegedly lodged by deceased. Its copy also placed on record. It was open for victim or his parents to promptly lodge report with police authorities regarding harassment and threat for withdrawing report. No evidence of complaint to college authority and also under Anti Ragging Act. No such step has been taken and it is admitted by learned counsel for appellant.

8. Record shows that, respondents had adduced evidence of a doctor (DW1 Dr. Amit Mane), who was allegedly treating deceased for some psychiatric problem. Said doctor placed on record papers of treatment suggesting diagnosis of “bipolar mood disorder in mania”. Papers are at Exh.237. Doctor has deposed about deceased having suicidal tendencies.

9. Resultantly, evidence on record shows that deceased Adesh committed suicide while he was at his parents place. There is no material to show that, in proximity of suicide, respondents had by any mode developed contact with deceased and subjected him to mental harassment and torture. Alleged suicide note comes under shadow of doubt for the reasons stated in aforesaid paras. There is no material suggesting continuous harassment of such nature, which left no alternative for the deceased, but to end up his life.

Consequently, learned trial Judge has committed no error in appreciating the quality of evidence and refusing to accept the case of prosecution. In our considered opinion, after hearing learned counsel for the appellant- informant as well as learned APP for the State at length, at admission stage itself, we are constrained to dismiss both the appeals. Hence, we proceed to pass following order:-

ORDER

Criminal Appeal No.631 of 2022 and Criminal Appeal No.944 of 2023 stand rejected.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)