



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.902 OF 2022

1. Adinath s/o Fakirchand Narwade
Age: 29 yrs., Occu.: Driver,
R/o. Pimpri (Ghumri),
Tq.Ashti, Dist.Beed. ..Appellant

Versus

1. The State of Maharashtra
Through the Police Inspector,
Nagar Taluka Police Station,
Dist.Ahmednagar.
2. Sachin S/o Ramdas Mhaske
Age: 42 yrs., Occu.: Agri.
3. Hirabai Ramdas Mhaske
Age: Major, Occu.: Agri.
Both R/o. Buradgaon,
Tq. & Dist.Ahmednagar.
4. Archana Amol Ranjegaonkar
Age: Major, Occu.: Service.
5. Amol Vijayrao Ranjegaonkar
Age: Major, Occu.: Service,
Resp. No.4 & 5, R/o. Wagholi,
Tq.Wagholi, Dist.Pune. ..Respondents
(Resp. No.2 to 5
original accused)

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Mr.N.L.Jadhav, Advocate for Appellant
Mr.S.D.Ghayal, APP for respondent no.1

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

DATE : 27 SEPTEMBER, 2023

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

1. By invoking Section 372 of the Code of Criminal Procedure, original informant is hereby questioning the judgment and order of acquittal passed by the learned Additional Sessions Judge, Ahmednagar dated 05-09-2022 in Sessions Case No.18 of 2019, which was tried against present respondent nos.2 to 5 for offence under Sections 498-A, 304B, 306 read with 34 of the Indian Penal Code (IPC).

BRIEF CASE OF PROSECUTION

2. In short it is the case of prosecution that, deceased Seema was married to respondent no.2 on 16-04-2012 and after marriage she went to reside with husband and in-laws at Burudgaon. According to prosecution, initially for a period of six months or so Seema was treated well but thereafter, on some or other count she was abused and subjected to mental cruelty. One and half year prior to the incident, they started beating her for not bearing child and failure to arrange amount for purchase of Scorpio. That whenever deceased Seema came home, she informed her family members about ill-treatment meted out to her. That getting fed up of the mal-treatment finally Seema hanged herself and therefore, on the basis of report

lodged by her brother PW1 Adinath Fakirchand Narawade, Ahmednagar Taluka Police Station registered crime which was investigated and on completion of investigation accused were duly tried but came to be acquitted by the impugned judgment and order. Hence, informant has filed present appeal.

SUBMISSIONS ON BEHALF OF APPELLANT

3. According to the learned Counsel for the appellant, the deceased was married to respondent no.2 in April, 2012. That after marriage, she went to reside with her husband and in-laws. That initially she was treated well but subsequently, there was ill-treatment on account of non-bearing child and not fulfilling demand of Rs.2,00,000/-. According to him, there were continues abuses, beating, mental as well as physical harassment. Deceased used to promptly report such harassment made out to her separately to all family members and they deposed to that extent in their testimonies before the Court. On 14-10-2018, deceased had died in the house and while in custody of husband i.e. in suspicious circumstance. According to him, as unnatural death has taken place within seven years of marriage, offence under Section 304B of IPC was also made out. That inspite of family members including informant deposing to that extent, learned trial Court has not considered and appreciated

the evidence in correct spirit. That, the judgment of acquittal is without assigning proper and satisfactory reasons. It is based on surmises and conjunctures and crucial evidence has not been properly appreciated. Thus, according to him, such judgment cannot be allowed to be sustained and so he prays to allow the appeal.

4. We have noticed that in support of its case, prosecution has examined in all six witnesses and their status and role are as under:

EVIDENCE ON BEHALF OF PROSECUTION

PW1 Adinath Fakirchand Narawade is brother of deceased and informant. His evidence is at Exh.76.

PW2 Kishor Devidas Jagtap is Pancha to spot panchanama. His evidence is at Exh.78. Spot panchanama is at Exh.79.

PW3 Gajanan Fakirchand Narwade is another brother of deceased. His evidence is at Exh.80.

PW4 Bhaskar Yadav Labade is A.S.I. attached to Nagar Taluka Police Station. His evidence is at Exh.84.

PW5 Dr.Abhijit Limbraj Bandgar is Autopsy Doctor. His evidence is at Exh.86.

PW6 Shahadev Dinkar Palve is Investigating Officer. His evidence is

at Exh.90.

ANALYSIS

5. In the light of above submissions, we have visited entire evidence of prosecution placed before the learned trial. There is no dispute that deceased was married to respondent no.2 in 2012. According to PW1 Adinath, informant brother, after six months of marriage, husband and in-laws subjected his sister to ill-treatment for not bearing child. So understanding was given to the accused and they assured to behave properly. Evidence of PW1 Adinath, brother of deceased, on close scrutiny shows that approximately one and half year prior to death, there are allegations about torture on account of demand of Rs.2,00,000/- for purchasing Scorpio. However, apparently incident in question had taken place on 14-10-2018. Medical evidence shows that death was due to “asphyxia due to hanging”. However, what exactly happened immediately prior to the suicide has not been stated by the brother of deceased or any other witnesses. Surprisingly, even parents of deceased are not examined. The persons who allegedly were mediators, are not examined by prosecution. PW1 Adinath, brother has not clarified the nature of physical or mental cruelty subjected to his sister. Since marriage, if there was ill-treatment after barely six months, more

evidence to that extent was expected to be brought on record, but that has not happened. PW1 Adinath, Informant has admitted that there was no previous complaint. Therefore, there is insufficient or no material in support of allegations to attract Section 498A.

6. It is true that deceased had hanged herself in the house of accused. Here, there are clear suggestions to the prosecution witnesses that deceased was upset for not bearing child and some have admitted it. **PW5** Dr.Bandgar, Autopsy Doctor had candidly admitted that death seems to be suicidal one because no symptoms of homicidal death were noticed by him. Occurrence was also reported as suicide.

7. For attracting charge under Section 304B of the IPC, it has to be shown by the prosecution that soon before the death, there has to be mal-treatment. However, as stated above, prosecution evidence is completely silent as to what preceded earlier to 14-10-2018. Marriage is already almost six years old. What prompted deceased to commit suicide has not come on record. Therefore, very essential requirement for attracting charge under Section 304B of the IPC is patently missing from prosecution evidence.

CONCLUSION

8. Resultantly, as the evidence is very weak or insufficient and devoid of essential ingredients for attracting the charge, with such quality of evidence, no other opinion than that has been drawn or concluded by the learned trial Court can be reached at by any Court of law. Therefore, in our opinion, there is no material for admission of appeal. Hence, following order :

ORDER

Criminal Appeal stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE