

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2438 OF 2019

Shahaji Bhikaji Pansare and ors .. Petitioners
Versus
State of Maharashtra and anr .. Respondents
...

Mr. Ghansham S. Jadhav for the petitioners.
Ms.Manisha Devkar, Appointed Advocate for respondent no.2.
Mr.S.R. Agarkar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 14th SEPTEMBER, 2023

P.C:-

1 The present Revision is filed by the petitioners being aggrieved by framing of charge at the hands of Addl. Sessions Judge, Baramati in Sessions Case No. 97/2016 against all the accused persons, the charge being framed u/s.498A, 323 r/w Section 34, 504 r/w Section 34, 506 r/w Section 34 and Section 304-B r/w Section 34 of IPC.

Learned counsel for the petitioners would concede to the fact that they are aggrieved by framing of charge, in particular, under Section 304B r/w Section 34 of the IPC.

2 It is specifically argued that the allegations are vague and omnibus, as the complaint came to be filed by the uncle of the deceased Satyabhama, who was married to petitioner no.1 on 4/12/1992. The other petitioners are the relatives of the petitioner no.1 and according to the learned counsel, the complainant had made reference to them in a vague manner by stating that all of them had subjected her to harassment on the count of bringing jewellery as well as tractor from her parents.

 It is the specific submission of the learned counsel that the post-mortem report has opined the cause of death to be on account of shock due to 'pulmonary odema'.

 By inviting my attention to the report of the Dean from the Sassoon Hospital, his submission is, it is not conclusively established that the death was in unnatural circumstances. It is also contended that in the year 1995, on the complaint filed, only Section 498A was invoked and it is only in the year 2014, that Section 304-B came to be inserted on an application filed by the Prosecutor.

3 Learned appointed counsel representing the respondent no.2 Ms.Manisha Devkar would submit that being aggrieved by the invocation of Section 304B, the petitioners had preferred a Revision and the same was dismissed and the same order has reached finality. She would invite my attention to the

medical opinion and response to the queries raised by the Investigating Officer from time to time, and her submission is, it is not conclusively opined by any Doctor that the death was natural and since the death of Satyabhama had occurred within seven years of the marriage, Section 304B has rightly been invoked.

4 On perusal of the material compiled in the charge-sheet and the other documents which are placed on record along with the charge-sheet, the prosecution is justified in invoking Section 304B as no conclusive opinion has been formed, that the death was natural.

A feeble attempt is made by the counsel for petitioners when he would argue that Satyabhama was suffering from Jaundice and she was undergoing treatment and it is quite possible that the death is on that count.

In any case, if this is the defence of the accused persons, which will have to be ultimately presented in the trial as, at this stage, it is not permissible for me to look into the defence of the accused persons and upon adequate proof being adduced to that effect, they may even be entitled for an acquittal. However, at the stage of framing of charge, since the charge-sheet refer to the death in unnatural circumstances, with the accompanying material in form of harassment being faced by the deceased, as narrated to her relatives, I do not find merit in the submission of

the learned counsel, that the material is not sufficient to take them for trial.

Though at this stage, it is permissible for me to sift the evidence, it cannot be done with an intention of assessing its probability or otherwise.

For the aforesaid reasons, Criminal Writ Petition is accordingly dismissed.

Since Advocate Manisha Devkar has been appointed by the Legal Aid for the purpose of espousing the cause of respondent no.2, I would like to record my appreciation for the strenuous efforts taken by her.

The Legal Services Authority is directed to pay the legal remuneration within a period of six weeks from today.

(SMT. BHARATI DANGRE, J.)