



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

CRIMINAL REVISION APPLICATION NO.2 OF 2005

Shakuntalabai W/o Govind Alhat,
Age : 49 Years, Occu. : Household,
R/o R.B-II/7/3-1D Panchavati Colony,
Manmad, Tq. Nandgaon, Dist. Nashik. ... Applicant.

Versus

1. Pramod S/o Sakharam Nikale,
Age 28 years, Occu : Business,
R/o Raste Suregaon, Tq. Yeola,
Dist. Nashik.
2. Kusumbai W/o Sakharam Nikale,
Age 50 years, Occu : Household,
R/o Raste Suregaon, Tq. Yeola,
Dist. Nashik.
Now at Vidya Nagar, Vaijapur,
Dist. Aurangabad.
3. Savita W/o Ravindra Pagare,
Age 34 years, Occu : Doctor,
R/o Vidya Nagar, Vaijapur,
Dist. Aurangabad.
4. Ravindra S/o Haribhau Pagare,
Age 44 years, Occu : Service,
R/o As above.
5. The State of Maharashtra. ... Respondents.

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Advocate for Applicant : Mr. D. S. Ingole.
APP for Respondent-State : Mr. AAA Khan.
Advocate for Respondent No.2 : Mr. A. G. Jadhav.
Advocate for Respondent Nos.1, 3 & 4 : Mr. S. S. Dudhane h/f
Mr. V. R. Dhorde.

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**CORAM : S. G. MEHARE, J.
DATE : 23.09.2024**

ORAL JUDGMENT :-

1. Heard the learned counsel for the applicant and the respective learned counsels for the respondents/accused.
2. The applicant/mother of the deceased married woman impugned the judgment and order of acquittal of the learned Sessions Judge, Aurangabad passed in Sessions Case No.80 of 2004, dated 04.10.2004.
3. The deceased was married to applicant No.1 on 17.11.2002 and died on 03.12.2003. She was treated with the private doctor for administering the poison. However, she could not survive. The report was lodged after the post death ceremony alleging that the deceased was harassed and ill-treated for dowry. Hence, she consumed the poison.
4. The charges for the offences punishable under Sections 306, 304-B, 498-A and 304-B of the IPC were framed. The applicant had a case that they never ill-treated the deceased. They never demanded for dowry. The deceased had mistakenly consumed the poisonous substance. Immediately after the incident, one of the co-accused took her to the hospital. She was treated there. The parents were also attending the hospital

during her treatment. As a fashion of the day, all family members were roped as accused in the crime. The prosecution examined the relevant witnesses. However, the learned Sessions Judge appreciating the evidence, discussing the law held that the prosecution has failed to prove the charges against the accused.

5. The learned counsel for the applicant/petitioner argued that there were sufficient circumstances to establish that the deceased committed suicide due to harassment and cruelty for dowry. The death was within 7 years, hence, presumption under Section 113-A of the Indian Evidence Act was applied. The learned Sessions Judge did not appreciate the law correctly. He recorded the hypothetical finding. The entire circumstances were against the accused. In the normal course, she had no reason to consume the poison. She lost the life in a short span of her marriage. Therefore, revision application may be allowed.

6. Per contra, the respective learned counsels for the respondents submit that the learned Sessions Court had considered the entire facts and circumstances, the conduct of the accused as well as the prosecution witnesses. The learned Sessions Court has correctly applied the law as regards the

demand of dowry and ill-treatment to the deceased for unlawful demand. The deceased was never coerced for illegal demand and never consistently harassed her to compel her to commit suicide. The impugned judgment and order is well reasoned. There are no errors of law. Hence, the revision application deserves to be dismissed.

7. Perused the impugned judgments and orders. No doubt, the deceased died in a short span of her marital life. It is not the rule that when the death is caused in seven years, the presumption under Section 113-A or B is applied mechanically. Before applying such presumptions, the prosecution has to establish the charges beyond the reasonable doubts. The prosecution has also to bring the circumstances proving the nexus of the accused coercing the deceased to end the life. The post and pre incident conduct of the accused are the relevant circumstances. The learned Sessions Judge had discussed all the circumstances with a material admission of treating doctor that the poison was administered accidentally. The Court has correctly recorded that every attempt was made to save the life of the deceased. The post death conduct of the accused was specifically shows that the entire family members of the deceased were supporting her for her beauty parlour and

education. There were no circumstances to doubt the conduct of the respondents. Their relations were good. But it was a mishap.

8. After perusing the impugned judgment and order, the Court is of the view that the impugned judgment and order of the learned Sessions Judge is free from errors and infirmity and does not warrant interference. There is nothing to interfere with the impugned judgment and order. Hence, the following order :

ORDER

- (i) Criminal revision application stands dismissed.
- (ii) The bail bonds and surety bonds of the respondents/accused stand cancelled.
- (iii) Surety stand discharged.
- (iv) Rule stand discharged.
- (v) R and P be returned to the learned Trial Court.

(S. G. MEHARE, J.)

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vmk/-