



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.83 OF 2023

Suvarna D/o. Navnath Lad @
Suvarna W/o. Mangesh Garje
(Name after the marriage)
Age: 30 years, Occu.: Household
R/o. Chincholi, Tq. Patoda,
Dist. Beed.

... Appellant
(Orig. Complainant)

VERSUS

1. The State of Maharashtra
Through : Police Station Ambhora,
Dist. Beed. (Crime No.8/2012)
2. Ganesh S/o Sahebrao Bangar,
Age: 28 years, Occu.: Agril.,
R/o. Nalewadi, Tq. Ambad,
Dist. Jalna.
3. Sahebrao S/o Vishwanath Bangar,
Age: 67 yars, Occu.: Agril.,
R/o. R/o. Nalewadi, Tq. Ambad,
Dist. Jalna.
4. Shobha W/o Sahbrao Bangar,
Age: 60 years, Occu.: Household,
R/o. Nalewadi, Tq. Ambad,
Dist. Jalna.
5. Noor Mohammad Faji Mohammad
Age: 32 years, Occu.: Retired ASI.
R/o. C/o. Commissioner of Police,
Special Branch, Aurangabad.
(Appeal is abated against respondent no.5
as per order dated 17.08.2023)

... Respondents

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Mr. N.Y. Kingaonkar, Advocate for Appellant
Mr. A.A.A. Khan, APP for Respondent No.1 – State
Mr. S.E. Shekade, Advocate for Respondent Nos.2 to 4.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd AUGUST, 2024

ORDER:

1. This appeal filed by appellant/informant under section 372 of the Code of Criminal Procedure, challenges the judgment and order dated 03.10.2022 passed by the learned Additional Sessions Judge, Beed in Criminal Appeal No. 42 of 2016.

2. The appellant/informant lodged FIR at Crime No.8 of 2012 with Ambhora Police Station, District-Beed alleging the commission of offence by accused persons under sections 3 and 4 of Dowry Prohibition Act.

3. Prosecution case is that, marriage of appellant was fixed with accused No.1 and their engagement ceremony took place on 14.05.2012. Her father Navnath Nivrutti Lad had given Rs.1,00,000/- prior to 15 days of the engagement ceremony for purchasing tractor. The date of marriage was fixed as 11.08.2012. Proposed husband, father-in-law and mother-in-law demanded Rs.3,00,000/- to her father for purchasing tractor. They told her father that if Rs.3,00,000/- is not given, the marriage would be cancelled. Appellant's father demanded back Rs.1,50,000/- given by him to the accused persons, but accused persons refused to refund the said amount. Demands were also made on phone. Informant was

under tremendous tension because of the same and hence she poured kerosene on her person and set herself on fire on 31.07.2012 between 9.00 a.m. to 9.30 a.m. near her house. She was admitted in Civil Hospital, Ahmednagar. At the instance of Suvarna, Crime No.08 of 2012 registered with Ambhora Police Station under sections 3 and 4 of Dowry Prohibition Act. On completion of investigation, charge-sheet is filed and Accused accused were charged under sections 3 and 4 of Dowry Prohibition Act, and case is accordingly numbered as R.C.C. No.10 of 2013.

4. Prosecution examined seven witnesses in support of its case, two witnesses were examined by accused. Trial Court convicted accused persons under sections 3 and 4 of Dowry Prohibition Act and sentenced them to suffer rigorous imprisonment for two years and to pay fine of Rs.10,000/- each. Being aggrieved by the same, accused persons preferred Criminal Appeal No.42 of 2016 in the Sessions Court, and the Sessions Court has allowed the appeal and acquitted the accused persons. Hence, present appeal.

5. Heard learned advocate for appellant, learned APP for Respondent No.1 – State and learned advocate for Respondent Nos.2 to 4. Perused the record.

6. Perusal of evidence on record shows that marriage between appellant and accused No.1 was not solemnized. It is brought on record during cross-examination of appellant that they are residing in the house constructed from stem of Bajra crop with roof of tin shade and cattle shade is also constructed from wooden pillar and tin shades. She has also admitted that accused persons were taking cash crop like sugarcane in 5 to 6 acre area in their agricultural land. Along with sugarcane, they were also taking crops like cotton and lentils. She has also admitted that accused persons are having one jeep, motorcycle and one tractor and financial condition of accused is sound and financial condition of informant's family is weak. She denied the suggestion that accused persons exchanged their old tractor by purchasing new tractor and they obtained of Rs.4,00,000/- from L & T company for purchasing new tractor.

7. PW-3 Chairman of the Milk Society, though has deposed that he had given Rs.50,000/- to appellant's father, so as to enable him to pay the same to accused persons and the said amount was paid in his presence at the time of engagement, he has failed to bring on record any documentary evidence in support of the said contention.

8. Appellant claims to have suffered burn injuries, however, her injury certificate is not placed on record. In the cross-examination of the Medical Officer, it is brought on record that there is a police chowky at the entrance of the Hospital. In spite of this fact, there is delay of four days in lodging FIR, which is not explained by the appellant or her father. In absence of medical certificate, it is not clear as to what extent appellant had received burn injuries. In her evidence, appellant has stated that an amount of Rs.1,50,000/- was given by her father to the accused persons by way of hand loan to purchase a tractor, which is contradictory to the prosecution case that the said amount was paid as dowry.

9. In the light of above, the first Appellate Court has rightly appreciated the evidence and acquitted the accused persons by assigning proper reasons. View taken by the first Appellate Court is a possible view, which is not liable to be interfered with in exercise of extraordinary jurisdiction under section 372 of the Code of Criminal Procedure. Appeal being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE