



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 37 OF 2019

The State of Maharashtra,
Through Sangamner City Police Station,
Tq. Sangamner, Dist. Ahmednagar

... Applicant
(Orig. Complainant)

Versus

1. Mirza Aayaj Ilyas Baig,
Age : 45 years, Occu. : Business,
2. Mirza Khalid @ Guddu Ilyas Baig,
Age : 36 years, Occu. : Business,

Both R/o. Madinanagar, Sangamner,
Tq. Sangamner, Dist. Ahmednagar

... Respondents.
(Orig. Accused)

...
Mrs. Chaitali Chaudhari Kutti, APP for Applicant – State.
Mr. Shaikh Mohammad Naseer, Advocate for Respondent Nos.1 & 2.
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 23rd APRIL, 2024

PRONOUNCED ON : 29th APRIL, 2024

ORDER :

1. Judgment and order of acquittal passed by Assistant Sessions Judge, Sangamner, District Ahmednagar in Sessions Case No. 07 of 2017, dated 22.02.018, acquitting respondents from offence punishable under sections 306 and 506 read with section 34 of Indian Penal Code (IPC) is sought to be challenged by filing appeal and hence State has preferred instant leave application.

2. Present respondents were charge-sheeted by Sangamner City Police Station for offence punishable under sections 306 and 506 read with section 34 of IPC on receipt of complaint from informant Sanjay.

3. Learned APP for State pointed out that, there was civil dispute i.e. on right to way between parties. Litigation was pending. That, accused were deliberately creating trouble and harassing entire family of deceased Prakash. That, they indulged in illegal activities and consistently harassed Prakash. That, they used to threat to kill and set house on fire. Because of said threats and such conduct of accused, Prakash was upset and nervous. That, he was deeply frustrated.

4. On 30.03.2016, accused persons tampered with electric meter, and therefore, deceased went to question them, that time also, they issued threats. Learned APP pointed out that it had become unbearable for Prakash. Only because of such harassment and maltreatment, Prakash hanged himself. That, there was suicide note. That, there is positive handwriting expert's evidence. That, family members of Prakash deposed about continuous harassment by accused. That, they were solely responsible for

abetting the suicide and in spite of full proof case being made out, learned APP submitted that, learned trial court has refused to accept the case of prosecution and acquitted the accused. According to her, there is a good case on merits in appeal and so she prays to grant leave.

5. In answer to above, learned counsel for respondents pointed out that, prosecution miserably failed to establish the charges. He pointed out that, prosecution could not establish that there was inducement to suicide. That, there was no nexus with suicide of deceased and accused. Moreover, there was delay in handing over suicide note. Even FIR is at belated stage. Therefore, finding place of prosecution doubtful, learned trial court rightly acquitted the accused also and he prays to refuse the leave.

6. Perused the papers. It seems that, on complaint of one Sanjay, Sangamner City Police registered crime for offence punishable under sections 306 and 506 read with section 34 of IPC. Precise allegations are abetment of suicide of deceased Prakash. It seems that, there is civil dispute between the parties and litigation was pending. Complaint is regarding continuous harassment, creating nuisance and hurdles in electricity supply and tampering electric meter. It seems that, prosecution adduced

evidence of in all 10 witnesses. Prakash seems to have hanged himself in the cattle shed of house on 31.03.2016. Prosecution claims that, in the afternoon of 30.03.2016 attempt was made by accused no.1 to tamper the electric meter and so deceased had been to question him. It is alleged that, that time there were threats to kill, set house to fire. Prosecution claims that, after said episode deceased Prakash was upset and nervous.

7. As stated above, suicide is committed on the intervening night of 30.03.2016 and 31.03.2016 and the episode of hanging came to light in the early hours of 31.03.2016. Since 1:00 p.m. of 30.03.2016 till committing suicide, deceased was shown to be in his own house and in the company of his near and dear also. Except episode of afternoon regarding threats, which was of fall out of questioning for tampering with electric meter, there is nothing to connect both respondents. No doubt, suicide note is said to be recovered, but it is not seized at the time of inquest or spot, but it subsequently handed over that too by nephew of deceased. Learned trial Judge has after elaborate discussion in paragraph no. 54, held that, it is unsafe to accept the opinion of handwriting expert, which is mere opinion. It seems that, very wife of deceased Prakash, who was a crucial witness and who might be aware of the happenings before Prakash hanged himself, is not examined.

Resultantly, here there is no apparently nexus between accused and suicide of deceased. There is nothing to show that they abetted the suicide. Therefore there is no good ground to grant leave. Hence, I proceed to pass the following order :-

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)