



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 70 OF 2019

The State of Maharashtra,
Through Police Station Ausa,
Dist. Latur.

... Applicant
(Orig. Complainant)

Versus

1. Hanmant Rangrao Jagtap,
Age : 42 years, Occu. : Agri.,
2. Rangrao Yadav Jagtap,
Age : 65 years, Occu. : Agri.,
3. Vandana w/o. Rangrao Jagtap,
Age : 60 years, Occu. : Household,
4. Rajendra @ Raju Rangrao Jagtap,
Age : 46 years, Occu. : Agri.,
Age : 46 years, Occu. : Agri.,
All R/o. Hasegaonwadi, Tq. Ausa,
Dist. Latur.

... Respondents.
(Orig. Accused)

...
Mr. S. M. Ganachari, APP for Applicant - State
Mr. K. R. Yadav h/f. Mr. S. J. Salunke, Advocate fo Respondents.
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 25th APRIL, 2024

PRONOUNCED ON : 02nd MAY, 2024

ORDER :

1. Instant leave to appeal is filed by State as it desires to question the judgment and order passed by Additional Sessions Judge-2, Latur in Sessions Case No.102 of 2014 dated 30.06.2017,

acquitting respondents herein from offence punishable under sections 306, 323, 498A read with section 34 of Indian Penal Code (IPC).

2. Learned APP pointed out that, Seetabai was married to respondent husband and out of their wedlock, they had a son. That, everything was smooth for two years, but thereafter accused started putting up demand of money for digging a bore-well. On account of such demand, they ill treated Seetabai. That, subsequently they also made demand of Rs.2,00,000/- as they had purchased land. On account of non fulfillment of above demand, husband, in-laws, brother-in-law subjected Seetabai to ill treatment. According to learned APP, on 28.06.2014, accused persons jointly beat Seetabai. Few hours thereafter, she hanged herself. They are solely responsible for the suicidal hanging. According to learned APP, immediate neighbour PW6 Satish Lawate, who rescued Seetabai while she was being beaten at the hands of accused respondents, has been examined by prosecution. Family members of Seetabai have also deposed about demand and ill treatment. That, there was convincing evidence, but still learned trial court acquitted the accused. According to learned APP, there is improper appreciation of evidence, there is a good case in appeal and hence he seeks leave.

3. While resisting the application, learned counsel for accused respondents would point out that marriage of Seetabai and accused husband is of 12 years old. That, allegations are false and baseless. That, there was no demand. Land was already purchased. According to learned counsel, there is no convincing evidence about alleged occurrence dated 28.06.2014. Only interested witnesses are examined and they too were not consistent or lending support to each other. That, there was no cruelty or abetment and hence learned trial court rightly acquitted the accused. Hence, he prayed to refuse leave.

4. After considering the submissions of both sides and on going through the papers, there is charge of sections 306, 323, 498A of IPC. The prosecution has examined **PW1** Ranba, father of deceased; **PW2** Sambhaji, pancha to spot panchanama; **PW3** Manik the informant, **PW4** Anusayabai, sister of deceased, **PW5** Vinayak, villager and vendor of land purchased by accused, **PW6** Satish, immediate neighbour; **PW7** Dr. Sambhaji Salunke; **PW8** PHC Dhanaji, who recorded the complaint and **PW9** Mahadeo Pawar is the Investigating Officer.

5. At this stage, entire evidence need not be evaluated.

Allegations are of demand of money for bore-well and for purchasing land. Informant who is cousin brother seems to have received information, and thereafter, he has lodged FIR. Resultantly, he is a mere cousin brother and he is not party to the incident or witness to said episode, which took place in the morning i.e. the day on which deceased committed suicide. It is emerging that, there is no evidence to show where bore-well was to be dug and who amongst the accused ill treated deceased and moreover in what manner. Witnesses are only speaking about harassment and ill treatment, but neither specific incidences or nature are stated by them. Father merely speaks about demand of Rs.2,00,000/-, ill treatment and assault, but when, where and in what manner ill treatment by accused persons, is not stated by him. PW4 Anusayabai, sister is also making general allegations. Therefore, very near and dear ones are apparently levelling general allegations. Crucial witnesses is PW6 Satish a neighbour. In spite of he claiming to have seen beating to Seetabai on the morning of 28.06.2014, he has admitted in cross that he did not report it to police in spite of visit of police to the house of deceased.

6. Therefore, witnesses are speaking about incident of beating on 28.06.2014. Except such solitary incident, there is nothing to show that there is abetment to commit suicide. In

support of section 323 of IPC, there is no distinct evidence. As stated above, in support of charge of 498A of IPC also, there is weak evidence. Allegations of cruelty and maltreatment are proved beyond reasonable doubt. PW5 Vinayak, vendor of land purchased by accused seem to have denied ill treatment.

7. Therefore, with such quality of evidence, no infirmity can be attributed to the finding reached at by learned trial court. No good ground being made out to grant leave as prayed, I proceed to pass the following order :-

ORDER

(i) Leave is refused.

(ii) Application is rejected.

(ABHAY S. WAGHWASE, J.)