



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

**APPLICATION FOR LEAVE TO APPEAL
BY STATE NO. 71 OF 2019**

The State of Maharashtra
Through Police Inspector,
Pathardi Police Station,
Tq. Pathardi, Dist. Ahmednagar.

...Appellant
(Original Complainant)

VERSUS

1. Nanasaheb s/o Chandrakant Aargade,
Age; 30 years,
2. Chandrakant s/o Shankar Aargade,
Age; 58 years,
3. Latabai Chandrakant Aargade,
Age; 52 years,

All R/o Aargade Wasti, Taluka Pathardi,
District Ahmednagar.

...Respondents
(Original Accused)

...
APP for the appellant/State : Mr. S.M.Ganachari
Advocate for Respondent Nos. 1 to 3 : Mr. Joydeep Chattarji
...

CORAM : ABHAY S. WAGHWASE, J.

Date of Reservation : 24.04.2024
Date of Pronouncement : 07.05.2024.

ORDER :

1. The instant leave application by State is with prayers to permit it to file appeal against the judgment and order of acquittal passed by the learned Additional Sessions Judge, Ahmednagar dated 07.09.2017 in Sessions Case No. 185 of 2015.

2. In support of above relief, the learned APP pointed out that the deceased was married to original accused No. 1 Nanasaheb. Whereas, accused Nos. 2 and 3 are her in-laws. After 3 years of the marriage, accused persons started harassing, and ill-treating the deceased. They consistently harassed the deceased saying that she is unable to work and she does not bear the child. They also harassed her on the point of demand of Rs. 2,00,000/-, for purchasing a vehicle. He further pointed out that getting fed up such ill-treatment only deceased hanged herself on 19.10.2014 and even FIR was lodged on the same day.

3. It is further submitted by learned APP that in

support of above case and charge six witnesses were examined who are consistent about ill-treatment and demand. Apart from relatives, even independent witnesses were examined. But such evidence is not correctly appreciated. Accused being solely responsible for death of Anuradha, they ought to have been held guilty. There is improper appreciation of evidence and erroneous conclusion and hence leave to file appeal is prayed for.

4. Per Contra, learned Counsel for the respondents/original accused pointed out that the prosecution had miserably failed to establish the charge. According to him, there are omnibus and general allegations about ill-treatment and demand. There is no evidence of specific nature of ill-treatment to the deceased and specific instances as to when ill-treatment was subjected and exactly by whom. Therefore, it is submitted that charge under Section 498-A of the Indian Penal Code apparently failed. Likewise, he submits that even charge under Section 306 of IPC could not be attracted to accused as there is no evidence regarding inducement abetment. There being correct appreciation of

evidence as well as law, learned counsel prays to refuse leave.

5. Perused the papers. It seems that accused No. 1 is husband of the deceased, whereas, accused Nos. 2 and 3 are the in-laws of the deceased. Evidence shows that the deceased Anuradha was married with accused No. 1, three years prior to the incident. The incident of hanging is of 19.10.2014, therefore, the marriage between the deceased and accused No. 1 must be around 2011.

6. The evidence of prosecution shows that the accused persons were ill-treating the deceased on account of her inability to do domestic work properly, for not conceiving child and for not meeting demand of Rs. 2,00,000/- for purchase of vehicle.

7. The father of deceased is examined as PW-2. One Ashok, who is the friend of PW-2, is also examined as PW-4. PW-5 seems to be the nephew of informant and the rest of the witnesses are the panchas and the police officers.

8. It is noticed on being pointed by learned counsel for respondent that PW2, 4 and 5 while under cross unable give specific instances as to when there was demand and when there was ill-treatment. They are also not highlighting nature of ill-treatment. Allegations are about commenting on inability to cook proper food and not conceiving. Allegations about demand of money or vehicle but for whom and which vehicle is also not clarified by any of the witness. Apparently allegations are general and omnibus nature.

9. Moreover, deceased seems to have hanged herself on 19.10.2014. There is nothing to show that on that day or in proximity to such day there was maltreatment which prompted deceased to hang herself. There is no material suggesting creation of such circumstances, due to which deceased was left with no other alternative but to hang herself. Resultantly, required necessary ingredients being palpably missing, no fault can be found in acquitted accorded by trial judge. No case is made out on merit to grant leave. Hence the following order :

ORDER

Application for leave to file Appeal by
State is dismissed.

**[ABHAY S. WAGHWASE]
JUDGE**

mahajansb/