



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 79 OF 2019

The State Of Maharashtra
VERSUS
Vasant Shivaji Niture and Others

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Mr. D.J. Patil, APP for Applicant-State
Mr. Akshay Kulkarni, Advocate h/f Mr. A.A. Yadkikar, Advocate
for Respondents

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 04th SEPTEMBER, 2024

ORDER :

1. By this application filed by State under Section 378(1)(b) of the Code of Criminal Procedure, leave is sought to challenge the judgment and order of acquittal dated 03.10.2017 passed by learned learned Additional Sessions Judge-1, Latur in Sessions Case No.27 of 2014.

2. Respondents/accused was charged under sections 306, 304-B, 498-A of the Indian Penal Code. It is the prosecution case that FIR was lodged by Kishan Yadavrao Lingayat (PW-6), in short, alleging that, seven years back his daughter Suvarna was married with Shivaji Vithal Niture (Yadav) resident of Ashta. He had given dowry of Rs.1,00,000/-, two tolas gold, household articles and

felicitated the in-laws as per tradition. Till the birth of two children, in-laws of Suvarna treated her well. When Suvarna was pregnant third time, her in-laws started demanding Rs.2,00,000/- for laying the pipeline in the field and started ill treating her on account of the said demand. Whenever Suvarna used to come to her maternal home on the occasion of festivals, she used to narrate about the said demand the ill treatment. In spite of persuasion on the part of informant, the ill treatment continued. In the night of 23.10.2013, Suvarna was assaulted with wooden piece. Due to which, she received injuries on right parital portion, right eye, chest and on the neck. She was assaulted on her right thigh by belt. As the ill treatment become unbearable Suvarna jumped into well and committed suicide. Though the suicide was within the knowledge of accused, they failed to inform to maternal relatives of Suvarna. On the next day morning, uncle of respondent no.1 Vasant, namely; Hanumant Niture called informant (PW6) and asked whether Suvarna had been to maternal home and told him that she is missing since last night. Then, informant (PW-6) along with his wife and relative went in search of Suvarna at Ashta. Dead body of Suvarna found in the well of Ganpat Telgawe on 25.10.2013. After performing last rites, he lodged FIR. On completion of

investigation, charge-sheet was filed and respondents/accused was charged for offences as stated above. In support of its case, prosecution has examined 13 witnesses. The trial Court has acquitted the accused persons. Hence, this application.

3. Heard learned APP for applicant-State and learned advocate for Respondents/accused. Perused the documents placed on record, notes of evidence, post-mortem report, police papers and impugned judgment and order of acquittal.

4. It is a matter of record that prosecution has totally failed to prove any ill treatment to the deceased. Even the suicidal death of deceased is not proved by the prosecution. There is possibility that deceased died due to accidental fall in the well. The neighbours of deceased PW-3 and PW-4 have not deposed about any ill treatment meted out to deceased by the accused persons. Father of deceased (PW-6) has admitted in his cross-examination that his another daughter Sheetal is married in the same village and her marriage was fixed at the instance of the accused. He further admitted that whenever he used to visit Astha, he used to meet both the daughters and both his daughters, i.e. Sheetal and Suvarna frequently used to visit each other houses. If at all there was any ill treatment meted out to deceased, Sheetal would be the best witness to

depose about the same in support of the prosecution case. Neither her statement is recorded during the course of investigation nor she is examined during the trial.

5. Mother of deceased (PW-11) has admitted in her cross-examination that during the life time of Suvarna, not a single complaint about alleged ill treatment was filed or made, she also admitted that after the death of Suvarna, they were insisting accused to transfer half acre land in the name of father of deceased (PW-6) and the accused refused to transfer the land. FIR which is admittedly prepared by advocate is lodged belatedly. No explanation is given for delay in lodging FIR. No particular role is attributed to each of the accused persons. Considering this evidence, it is clear that prosecution has failed to prove charge against accused.

6. Trial Court has rightly appreciated the evidence on record and has taken a possible view, which is not liable to be interfered with while exercising jurisdiction under section 378 of the Code of Criminal Procedure. Application being devoid of merit is dismissed.

**[NITIN B. SURYAWANSHI]
JUDGE**