



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 252 OF 2002

1. Ramlal Ramsing Pardeshi,
Age 32
2. Ramsing Bhaga Pardeshi - **(abated)**
Age 66
3. Pratapsing Ramsing Pardeshi
Age 38
4. Nirmalabai Pratapsing Pardeshi
Age 31
5. Manurabai Ramsing Pardeshi
Age 56
6. Kailas Ramsing Pardeshi - **(abated)**
Age 28

All Occu. Agri., R/o. Lohatara,
Taluka Pachora, Dist. Jalgaon.

... Appellants
[Orig. Accused]

Versus

State of Maharashtra

... Respondent

.....

Mr. Rajendra S. Deshmukh, Senior Advocate a/w Mr. Vishal A. Chavan and Ms. Tejshree Nalawade i/b Mr. Deepak Rajput and Mr. Pritamsing Rajput, Advocate for the Appellants.

Mr. D. J. Patil, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 19.03.2024

Pronounced on : 28.03.2024

JUDGMENT :

1. Instant appeal arises out of the judgment and order of conviction recorded by learned 2nd Ad-hoc Additional Sessions Judge, Jalgaon dated 24.04.2002 in Sessions Case No. 43 of 1996, recording guilt for offence punishable under Sections 306 and 498-A of IPC.

During pendency of appeal, appellant nos. 2 and 6 i.e. Ramsing Bhaga Pardeshi and Kailas Ramsing Pardeshi, since reported to be dead, the appeal stood abated against them vide order dated 24.01.2024. Hence, only appeal of appellant nos. 1 and 3 to 5 remains for consideration.

FACTS GIVING RISE TO THE APPEAL ARE AS UNDER

2. Husband and in-laws of Mangala were prosecuted by State on allegations that accused husband and in-laws, after marriage in 1994, ill-treated, abused and kept Mangala starved in the backdrop of demand of Rs.5,000/- for T.V. and Rs.1,500/- for bicycle. Deceased promptly reported such treatment meted out to her whenever she visited her parents on festivals. Finally, getting fed up of the said treatment, while she was in the custody of accused, she consumed poison on 05.06.1995 and ended up her life and therefore, crime was registered at Pachora Police Station.

3. PW7 PI Pachpute conducted investigation and after gathering sufficient evidence, chargesheeted accused. Case being triable by the court of Sessions, was assigned to the learned Additional Sessions Judge, who after conducting trial and on appreciating the evidence, held all accused appellants guilty for commission of offence punishable under Sections 498-A and 306 of IPC and awarded sentence as spelt out in the operative part of the order.

Precisely this judgment is questioned on various grounds raised in the appeal memo.

SUBMISSIONS

On behalf of the appellants :

4. Learned senior counsel for the appellants pointed out that apparently, there is false implication out of annoyance of losing Mangala, who committed suicide for the best reason known to her. According to him, there is no cogent evidence that death was only and only suicidal and not otherwise. He further submitted that allegations of maltreatment on account of demand are omnibus in nature. He took this court through the testimony of prosecution

witnesses and submitted that only interested witnesses, who are family members, are examined. There is no independent witness. Even otherwise, very family members are not lending support to each other. He also took this Court through the answers given by prosecution witnesses in cross and according to him, testimonies of all family members are thereby rendered doubtful.

5. He next submitted that for attracting offence of abetment to commit suicide, it is imperative for prosecution to establish necessary ingredients of Section 107 IPC. He strenuously submitted that there is not a single piece of evidence or iota of evidence to show that only because of abetment, incitement or inducement, deceased had consumed poison. Therefore, according to him, when abetment itself has not been substantiated, very charge of Section 306 IPC is misdirected. He seeks reliance on the following rulings :

1. ***Naresh Kumar v. State of Haryana*** 2024 SCC OnLine SC 202.
2. ***Sunil Bharat Pardeshi v. The State of Maharashtra***
[Criminal Appeal No. 224 of 2002 decided by this Court on 23.02.2024.]

On behalf of the State :

6. In answer to above, learned APP would submit that shortly after marriage, there was demand of articles like T.V., bicycle. Deceased used to inform her family members when she went for festivals. They had given understanding to victim that things would improve later on. Therefore, there was no complaint at any point of time. However, when ill-treatment and harassment became unbearable, deceased consumed poison. He further pointed out that said consumption was while she was in the custody of accused. They are answerable for unnatural death. That, there is no explanation from their side. Thus, according to learned APP, interference is not called for as there is no merit in the appeal.

EVIDENCE BEFORE THE TRIAL COURT

7. It seems that prosecution has examined in all 7 witnesses in support of their case. Their role and status and the sum and substance of their evidence is as under :

PW1 Dr. Teli, autopsy doctor, who conducted postmortem and opined that death was due to consumption of monocrotophos.

PW2 Father Rupchand deposed that after 7 to 8 days of marriage, when his daughter was brought for Narali Pournima, she told that accused demanded Rs.5,000/- for TV and Rs.1,500/- for bicycle and brother-in-law, his wife, another brother-in-law, mother-in-law and father-in-law abused her, beat her, kept her starved and made her sleep in the courtyard and as such there is severe ill-treatment. According to him, whenever she came for festivals like Diwali, Akshay Tritiya, she made complaint against husband and in-laws for ill-treating her. Finally, they got news about her death on 05.06.1995. Therefore, he lodged report.

PW3 Mansing, paternal uncle of deceased, deposed that after marriage, he had occasion to meet niece at the time of Narali Pournima and that time, she complained that her mother-in-law, father-in-law, brother-in-law, sister-in-law and husband were ill-treating her and were demanding Rs.5,000/- for T.V. and Rs.1,500/- for bicycle and kept her starved and beat her and even asked her to sleep outside the house. According to him, she made similar complaints at the time of Diwali as well as Akshay Tritiya. On 05.06.1995, message was received about the incident of suicide.

PW4 Mother Tulsabai claims that after marriage, her daughter came to the house for Raksha Bandhan and at that time, she told that husband, brother-in-law, mother-in-law, father-in-law asked her to bring Rs.5,000/- for T.V. and Rs.1,500/- for cycle and they were ill-treating her. According to her, husband

beat her, parents-in-law also ill-treated her. They were not providing her bed and food. Demand and ill-treatment continued and finally, on 05.06.1995, message of her death was received.

PW5 Rukhamabai, a relative of deceased, claims that after marriage, when deceased Mangala came for Narali Pournima, Diwali and Akshay Tritiya, at that time, she told that her in-laws were beating her. Elder brother-in-law and his wife ill-treated her and made her sleep outside and her in-laws made demand of Rs.5,000/- for TV and Rs.1,500/- for bicycle.

PW6 Daulat stated that he was called by Police Patil and he signed report and tendered it to Pachora Police Station on 05.06.1995. He has not supported prosecution.

PW7 PI Pachpute was the Investing Officer.

LEGAL POSITION

8. Here, charge was for offences punishable under Sections 498-A and 306 of IPC.

Law is fairly settled that, for attracting the charges under section 498A of IPC, prosecution is duty bound to prove following essential ingredients :-

- “(1) A woman was married;*
- (2) She was subjected to cruelty;*
- (3) Such cruelty consisted in -*
 - (i) any lawful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical;*
 - (ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the lawful demand ;*
 - (iii) the woman was subjected to such cruelty by her husband or any relation of her husband.”*

9. Accused are also convicted for offence under Section 306 of IPC i.e. abetment to commit suicide. Before advertng to the merits of the evidence, it would also be fruitful to spell out essentials for attracting charge of abetment to suicide and the settled legal position. For bringing home the said charge, it is duty of prosecution to prove that there was abetment to commit suicide. As to what amounts to abetment is also fairly settled. Section 107 of the IPC deals with abetment. It reads thus:

“107. Abetment of a thing- A person abets the doing of a thing, who -

First. - Instigates any person to do that thing; or

Secondly. - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission lakes

place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Section 306 of the IPC deals with abetment of suicide.

Ingredients of this section are as under :

- (1) There was suicide of a person;
- (2) It was committed in consequence of abetment of the accused.

10. In order to attract the charge of section 306 of IPC, it is incumbent upon prosecution to establish **incitement, instigation, aiding or abetment to commit suicide**. Law to this extent has been fairly settled in series of cases. Scope of Sections 107 and 306 IPC has been time and again decided by the Hon'ble Apex Court in the cases viz; *State of West Bengal v. Orilal Jaiswal* (1994) 1 SCC 73; *Ramesh Kumar v. State of Chhatisgarh* reported in (2001) 9 SCC 618; *Sanju @ Sanjay Singh Sengar v. State of M.P.* reported in (2002) 5 SCC 371; *Chitresh Kumar Chopra v. State* (2009) 16 SCC 605; *Amalendu Pal alias Jhantu v. State of West Bengal* (2010) 1 SCC 707; *State of West Bengal v. Indrajit Kundu and others* (2019) 10 SCC 188; *Rajesh v. State of Haryana* (2020) 15 SCC 359; *V.P.Singh etc. v. State of Punjab and others* 2022 SCC Online SC 1999 and very recently in the

case of *Kumar @ Shiva Kumar v. State of Karnataka* [Criminal Appeal No. 1427 of 2011 decided on 01.03.2024],

In above series of cases, it has been held and reiterated that court should be extremely careful in assessing the facts and circumstances of each case as well as the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. Principle that is culled out is that accused persons should specifically intend that deceased should end up her life. With that sole object in mind, they must have deliberately created circumstances, which are of such nature, that deceased is left with no other alternative but to end up her life. Only in such circumstances charge of abetment to commit suicide can be said to be successfully brought home.

Keeping above legal position in mind, evidence of prosecution is to be scrutinized.

ANALYSIS

11. Here, on carefully scrutinizing the evidence of family members, they are found to be stating that shortly after marriage, there was demand of Rs.5,000/- for T.V. and Rs.1,500/- for bicycle. All are

speaking about ill-treatment like abusing, beating, keeping starved and making her sleep outside. Role of each of the accused has not been clearly spelt out. Only one witness PW4 Tulsabai, i.e. mother of deceased, speaks about husband beating deceased, but even when those instances took place has not come on record. All are giving omnibus statements that whenever deceased came for festivals like Narali Pournima, Diwali, Akshay Tritiya, she reported them about such demand and ill-treatment. However, apparently details of when such instances of beating, keeping starved and making her sleep outside took place has not been stated by any of the witnesses. Therefore, allegations of demand and ill-treatment are apparently general and omnibus in nature.

12. As regards abetment to commit suicide is concerned, there is said to be consumption of poison by deceased on 05.06.1995. Prosecution witnesses claim that only because of ill-treatment, deceased was forced to commit suicide. However, going by their evidence also, last reporting about ill-treatment was around Akshay Tritiya. Such festival falls in the month of May. Suicide has apparently took place on 05.06.1995. Immediately prior to 05.06.1995 or in proximity to it or even on the intervening night of 4th and 5th June 1995, what role was played by husband and in-laws, has not come on

record. Therefore, when there is nothing to show that there was incessant ill-treatment or harassment by accused before consumption and further, maltreatment was of such nature that it had become unbearable for deceased and only therefore she consumed poison, said charge ought not to have been fastened against accused. There is nothing concrete to show that accused abetted suicide.

Consequently, in the considered opinion of this Court, here, there is nothing to hold that there was enticement or abetment to commit suicide. Resultantly, in the considered opinion of this Court, none of the ingredients of Section 498-A or 306 of IPC are available.

13. After going through the impugned judgment, this Court is of the considered opinion that there is improper appreciation. The findings reached at are contrary to the settled legal position and hence, interference is called for. Accordingly, I proceed to pass the following order:

ORDER

- I. The appeal is allowed.
- II. The conviction awarded to the appellants i.e. 1) Ramlal Ramsing Pardeshi, 3) Pratapsing Ramsing Pardeshi, 4) Nirmalabai Pratapsing Pardeshi and 5) Manurabai

Ramsing Pardeshi, by learned 2nd Ad-hoc Additional Sessions Judge, Jalgaon in Sessions Case No. 43 of 1996 under Sections 306 and 498-A r/w 34 of IPC on 24.04.2002 stands quashed and set aside.

- III. All the appellants stand acquitted of the offence punishable under Sections 306 and 498-A r/w 34 of IPC.
- IV. The bail bonds of the appellants stand cancelled.
- V. Fine amount deposited, if any, be refunded to the appellants after the statutory period.
- VI. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

[ABHAY S. WAGHWASE, J.]