



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 173 OF 2018

The State of Maharashtra,
Through Police Station Officer,
Police Station Karmad,
District Aurangabad

... Applicant.

Versus

1. Shaikh Yusuf Abdul Nabi,
Age : 50 years, Occu. : Service,
API (Under suspension)
Police Station Karmad
District Aurangabad.
2. Satish Pralhadrao Bodle,
Age : 49 years, Occu. : Service,
Police Constable (Under suspension)
Police Station Karmad,
Dist. Aurangabad

... Respondents.
(Orig. Accused)

...
Mr. N. D. Batule, APP for Applicant - State
Mr. Swapnil S. Rathi, Advocate for Respondent No.1
Mr. P. B. Waghmare, Advocate for Respondent No.2
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 FEBRUARY 2024

PRONOUNCED ON : 13 FEBRUARY 2024

ORDER :

1. Judgment and order of acquittal dated 09.04.2018 passed by Additional Sessions Judge, Aurangabad in Sessions Case No. 463 of 2012 is sought to be challenged by State and hence the leave application.

2. Learned APP pointed out that respondent was charge-sheeted for commission of offence under sections 306, 509 read with 34 and under section 201 of Indian Penal Code (IPC). It is pointed out that, deceased Sandhya daughter of informant was working as police constable and accused no.1 was in-charge of the police station and as such he was her superior. Allegations were raised that, he used to intentionally and deliberately make deceased work for late hours, he assigned her extra work, stare at her with ill intention. That, even accused no.2 used to hurt her feelings by blaming her for serving officers on their quarter. Deceased was under tremendous pressure. She had even written a suicide note and even maintained dairy. Because of the continuous harassment, deceased committed suicide. Father had lodged complaint and investigation reveled complicity of accused. There was no other reason for deceased to end up her life. Prosecution had adduced evidence of in all 11 witnesses, including PW6 Jyoti close friend of deceased to whom deceased promptly reported treatment meted out to her by accused. Therefore, it is submitted that, all ingredients for attracting the charges were available in the evidence, but learned trial court unfortunately acquitted both accused persons. According to learned APP, there is improper appreciation of evidence as well as legal position and therefore,

State is desirous to file appeal against the said judgment and order and hence he prays for leave.

3. On the other hand, learned counsels for respondents submitted that, there are apparently false implication. That, in fact, no such treatment as alleged was meted out at any point of time. He pointed out that, on the contrary, deceased was unhappy because of marital discord. Contents in the diary clearly reflect the same. Moreover, there was quarrel with the informant's father. Thus, it is submitted that, deceased was upset because of her family disputes and quarrels. Suicide was committed precisely for the same. There is no material to show that in proximity to death accused persons have come in contact with deceased and therefore learned trial Judge has rightly acquitted respondents and hence, prayers are raised for refusal to grant leave.

4. After considering the submissions advanced and on going through the papers, it seems that deceased was a lady police constable posted at Karmad police station, whereas accused was her superior being in-charge. Deceased seems to have committed suicide on 09.09.2012 and there is no dispute regarding the same i.e. death asphyxia due to hanging. Informant seems to be father. He claims that, his deceased daughter informed about heavy work

being assigned to her by accused senior officer. He speaks about she informing regarding she being called repeatedly in the chamber. On 08.09.2012, she allegedly told about ill intention and motive of accused. He also received information that on 09.09.2012 when he left her house, he received phone call of one Pathade informing that deceased was weeping and so come back and shortly another call was received asking him to come at GHATI hospital and on going there, he learnt about suicide. He also claims about suicide note found, wherein suicide was attributed to accused no.1.

5. Evidence on behalf of prosecution itself shows that deceased was assigned the work of inward-outward clerk. Other witnesses obviously being police officials are examined by prosecution, but nothing incriminating has been solicited in their evidence in support of the accusations. No evidence has been brought about deliberately assignment of heavy work. Rather, evidence of PW9 Ambadas shows that distribution of work to the staff was in consultation of this witness as well as accused. As regards to allegations regarding staring and repeatedly calling there is no evidence to draw ill intentions of accused. On the contrary PW9 Ambadas in cross has admitted about accused addressing deceased as 'Beta'.

Some instances are alleged by prosecution about deceased deliberately ordered to prepare tea, however, by no stretch of imagination, such orders can be said to be deliberate harassment and that too with ill intentions.

6. It further transpires from cross of PW10 Pallavi Barge Investigating Officer that there was matrimonial dissatisfaction by virtue of service of husband and there is text to that extent in the diary seized during investigation.

7. Suicide is of 09.09.2012. There is absolutely no material brought to the notice of this court by the learned APP to show involvement of accused persons of any sort in proximity to the suicide. There is no material suggesting inducement, incitement or abetment. Required ingredients for attracting offence being patently missing, no fault can be found in the appreciation and findings reached at by learned trial Judge. No case being made out for leave, I proceed to pass following order :-

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)