



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 194 OF 2018

The State of Maharashtra
Through Police Inspector,
Bhingar Camp Police Station,
Dist. Ahmednagar

... Applicant

Versus

1. Maruti Ashok Lashkare,
Age : 29 years,
2. Dwarkabai Ashok Lashkare,
Age : 80 years,

Both R/o. Sainath Park,
Opp. Z.P. School, Wadarwadi, Bhingar,
Dist. Ahmednagar.

... Respondents.

...
Mr. N. D. Batule, APP for Applicant – State.
Ms. Suvidha S. Kulkarni, Advocate for Respondents (appointed
through legal aid).

...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 07 FEBRUARY 2024

ORDER :

1. On account of acquittal of respondents from offence under sections 498A, 306, 323, 504, 506 read with 34 of Indian Penal Code (IPC), State is desirous of filing appeal against judgment and order dated 28.09.2017 passed by learned Additional Sessions Judge, Ahmednagar in Sessions Case No. 241 of 2014 and hence instant leave application.

2. Learned APP would submit that, present respondents were charge-sheeted by Bhingar Camp Police Station for above offences. That, deceased Nandini wife of respondent accused no.1 was subjected to mal-treatment by both husband and mother-in-law on account of non fulfillment of demand of Rs.10,000/-, motorcycle and demand of household expenses. That, deceased informed father informant the treatment meted out to her. That, on 16.05.2014 deceased had telephoned the informant about quarrel going on since last four days. On same day, deceased had hanged herself. However, according to learned APP, learned trial court has not considered and appreciated the oral and documentary evidence properly. That, suicide was within seven years of marriage. FIR is promptly lodged. Informant narrated acts of accused while in witness box. Other four witness also lend support to the prosecution case. There is explanation by accused regarding death of Nandini taking place while she was in their custody. All charges were cogently proved, but unfortunately learned trial Judge acquitted the accused. Hence, the impugned judgment illegally in the eyes of law, he seeks permission to file appeal.

3. Supporting the judgment, learned counsel for accused

submits that, prosecution had miserably failed to establish the case beyond reasonable doubt by adducing cogent and reliable evidence. According to him, marriage was more than seven years old and there is false implication and so it is prayed that no fault can be found in the judgment of trial court and hence he prays to refuse leave.

4. In the light of above submissions and record before trial court is put to scrutiny. *Prima facie*, marriage of accused husband and deceased seems to be of 2009 and they had also a son. Informant's evidence *prima facie* shows that, allegations about husband and mother-in-law demanding Rs.10,000/-, but for what reasons, is not clarified by him. Subsequently, there are allegations of demand of Rs.50,000/- for purchase of motorcycle and said demand is said to be complied. Still, there were allegations of harassment. It seems that, complaint for offence under section 498A of IPC was also lodged by deceased in 2011, but that was compromised.

5. It is noticed that, informant speaks about harassment, abuses and starvation, however, particulars and specific instances are not given by informant in his testimony. Further marriage is of 2009 and suicide is of 2014, thus apparently marriage is almost 8

years old. Informant claims about telephonic conversation during which it was informed about quarrel going on since last 2 to 4 days, but reason of quarrel is not coming forthwith. No doubt, prima facie, death is suicidal i.e. of 16.05.2014, but what exactly preceded said suicide is not available in the prosecution evidence.

Therefore, taking such quality of evidence into consideration, case does not seem to have been proved beyond reasonable doubt. With such quality of evidence, in the considered opinion of this court, no purpose also would be served by granting leave as prayed for. Hence, leave as sought cannot be granted, I proceed to pass the following order :-

ORDER

- (i) The application is hereby rejected.
- (ii) Fees of the appointed Advocate for the respondents is hereby quantified at Rs.5,000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(ABHAY S. WAGHWASE, J.)