



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 778 OF 2024

Darshan S/o. Jagdish Rajput,
Age- 25 years, Occ. Student,
R/o. (At present Pune),
Permanent Address: Mohadi,
Tq. Jamner, Dist. Jalgaon.

...APPELLANT

VERSUS

1. The State Of Maharashtra
Through: Police Inspector,
Police Station Jamner,
Taluka & Dist. Jalgaon.
C.R. No. 70/2020.
2. Vijay S/o. Bandu Kumawat,
Age: 62 years, Occu. Labour,
R/o. Plot No. 30, Gate No. 11/1,
shani Peth, Near Kanchannagar,
Play Centre, Jalgaon, Dist. Jalgaon.
3. Prakash S/o Bandu Kumawat (Died)
respondent No. 3 is formal party.
[Deleted as per order dated 02.09.2024]

...RESPONDENTS

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Mr. N.Y. Kingaonkar, Advocate for Appellant
Mr. D.B. Bhange, APP for respondent No. 1-State
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 02nd SEPTEMBER 2024

ORDER :

1. Leave to correct cause title. Amendment to be carried out during the course of the day.

Bhagyawant Punde

2. This appeal filed under section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenges impugned judgment and order of acquittal dated 15.06.2024, passed by learned Sessions Judge, Jalgaon in Sessions Case No. 195 of 2021, thereby acquitting the respondent-accused from offences punishable under sections 306 and 506 read with 34 of the Indian Penal Code and under section 39 of Maharashtra Money Lending (Regulation) Act, 2014.

3. Appellant lodged FIR against accused persons alleging that in the year 2000 his father had taken loan from the accused persons and executed a sale deed in respect of land Gut No. 101/2/A-2 situated at village Mohadi, Taluka- Jamner with a condition that accused shall reconvey the sale deed after payment of Rs. 1,50,000/-. In spite of repeated requests on the part of father of deceased and the appellant, accused did not reconvey the land, though offer was made to repay the amount of loan along with interest. Accused started demanding Rs. 40,00,000/- for re-conveyance of the sale deed in favour of appellant's father. Due to the said harassment, his father committed suicide on 03.03.2020 by leaving a suicide note naming the accused persons to be responsible for the suicide.

4. Two accused were charged for offence punishable under sections 306, 506 read with 34 of Indian Penal Code and under section 39 of Maharashtra Money Lending (Regulation) Act. Accused- Prakash Kumawat expired during the trial. After recording evidence, Trial Court acquitted accused- Vijay Kumawat. Being aggrieved by the said acquittal, present appeal is filed.

5. Heard learned advocate for appellant and learned APP for State. Perused the impugned judgment and order.

6. Learned advocate for appellant assailed the impugned judgment and order of acquittal contending that prosecution has proved the charge by examining 17 witnesses. The suicide note brought on record implicates the accused persons and therefore ingredients of section 306 of IPC are proved by the prosecution and the Trial Court has committed an error in acquitting the accused.

7. Learned APP supported the impugned judgment and order of acquittal.

8. Perusal of record indicates that though 17 witnesses are examined by the prosecution, ingredients of section 107 of

IPC which are necessary to prove charge under section 306 of IPC are not proved by the prosecution. Trial Court in paragraph 111 of the impugned judgment has recorded a finding that, "*the prosecution has failed to prove the intention of accused persons to cause alarm to the deceased by threatening him with a injury to his property i.e. the land in dispute.*" It is further observed that "*a copy of the sale deed (Exhibit-93) of the land in question, reveals that the sale was absolute one and it was taken place in the year 2000.*" In this view of the matter, Trial Court was of the opinion that since Rs. 40,00,000/- was demanded for re-conveyance of the said land in favour of deceased, a judicial note can be taken that the prices of lands are increasing day-by-day and therefore, said demand cannot be said to be unjustified and it cannot be said that by making such demand accused persons caused alarm to the deceased.

9. The view taken by the Trial Court is correct view in view of settled legal position. No case is made out by appellant to interfere in the impugned judgment and order by exercising jurisdiction under section 413 of BNSS. Appeal being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]

Bhagyawant Punde