



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 842 OF 2018

Kamlabai Madhukar Bhujange,
Age; 53 years, Occ; Household,
R/o; Harsul, Bhagatsing Nagar,
Tq. & Dist. Aurangabad.

...Appellant
(Original Complainant)

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Chikalthana,
Aurangabad.

...Respondent
(Prosecution)

2. Pramod alisas Balu s/o Kacharu Nagarale
Age; 30 years, Occ; Driver,
R/o; Balapur, Tq. & Dist. Aurangabad.

3. Kacharabai w/o Kachru Nagarale
Age; 48 years, Occ; Agri,
R/o; Balapur, Tq. & Dist. Aurangabad,
At present behind P.H.C. Adul, Tq. Paithan
District Aurangabad.

4. Kachru s/o Sayaji Nagarale,
Age; 53 years, Occ; Agri,
R/o; Balapur, Tq. & Dist. Aurangabad,
At present behind P.H.C. Adul,
Tq. Paithan, Dist. Aurangabad.

5. Madhukar s/o Ashruba Nagarale,
Age; 37 years, Occ; Agril,
R/o; Balapur, Tq. & Dist. Aurangabad.

6. Rama w/o Madhukar Nagarale,
Age; 32 years, Occ; Household,

R/o; Balapur, Tq. & Dist. Aurangabad.

7. Ramesh s/o Sayaji Nagarale,
Age; 45 years, Occ; Agri,
R/o; Balapur, Tq. & Dist. Aurangabad,
At present Brijwadi, Tq. & Dist. Aurangabad.
8. Sangita w/o Ramesh Nagarale,
Age; 40 years, Occ; Household,
R/o; Balapur, Tq. & Dist. Aurangabad,
At present Brijwadi, Tq. & Dist. Aurangabad.
9. Amol s/o Radhakisan Sonwane,
Age; 31 years, Occ; Business,
R/o; CL-5/40, Shivaji Nagar, Aurangabad,
Tq. & Dist. Aurangabad.

...Respondents
(Original Accused)

...

Advocate for the appellant : Mr. Vinod I. Thole
APP for Respondent No. 1/State : Mr. N.D. Batule
Advocate for Respondent Nos. 2 to 9 : Mr. Joydeep Chattarji

...

CORAM : ABHAY S. WAGHWASE, J.

Date of Reservation : 23.04.2024
Date of Pronouncement : 07.05.2024.

JUDGMENT :

1. The original Complainant is dis-satisfied with the judgment and order of acquittal passed by the learned Additional Sessions Judge, Aurangabad, in Sessions Case No. 292 of 2014 dated 13.06.2017, thereby acquitting respondent

Nos. 2 to 9 herein, from the charge under Sections 306 and 498-A read with Section 34 of the Indian Penal Code (for short "IPC").

2. Facts leading to the trial are as under :

Deceased Manda was married with accused/respondent No. 2 herein and out of their wedlock they had a son and a daughter. For a period of two years deceased Manda was treated properly and thereafter the husband and in-laws put up a demand of Rs. 1,00,000/-, for purchasing a rickshaw and on the backdrop of such demand the deceased was harassed and ill-treated. She reported such demand to her family members. There was suspicious on her character and there was beating, abuses and even threat to kill her. On 31.01.2014 deceased Manda immolated herself because of ill-treatment. As a result of which she suffered extensive burns and succumbed to the injuries. A report was lodged by Kamalabai, the mother of the deceased. On the strength of which, a Crime came to be registered and after investigation, the accused were charge-sheeted and finally tried before the learned Additional Sessions Judge,

Aurangabad, vide Sessions Case No. 292 of 2014. On appreciation of evidence and conclusion of trial, the learned Additional Sessions Judge, Aurangabad held that the case of prosecution has not been proved on both grounds i.e. the cruelty and abatement to suicide and acquitted the accused by order dated 13.06.2017. Hence the present appeal.

3. Learned Counsel for the appellant would submit that the prosecution has adduced evidence of in all nine witnesses. The same comprised the testimonies of family members to whom the deceased reported about the demand and ill-treatment. The witnesses are consistent. There was suspicious on her character and there was abuses and even threat to kill her. The prosecution proved the ingredients of Section 498A of the IPC. Evidence available on record has not been correctly appreciated and considered by the learned trial Judge. He further submitted that the cruelty and harassment was continuous and severe in nature and only because of the said reason, the deceased Manda committed suicide. He pointed out that there are two dying declarations, still the learned trial Judge failed to consider and appreciate the same

and inspite of there being sufficient evidence about the accused creating such circumstances, the deceased was left with no alternative but to commit suicide. They ought to have been held guilty but the learned trial Judge failed to appreciate the evidence and acquitted the accused. The trial Court has not assigned any reason to disbelieve the prosecution version. The learned Counsel for the appellant prays for setting aside the judgment and allowing the appeal.

4. On the other hand, learned Counsel for Respondent Nos. 2 to 9/original accused pointed out that the prosecution has miserably failed to establish the charges and failed to prove the case beyond the reasonable doubt. According to him, it was expected by the prosecution to establish offence under Section 498-A of IPC and its necessary ingredients, but the prosecution had no evidence in that regard. There are general and omnibus allegations. Specific instances are not quoted. The witnesses were not consistent, therefore, the evidence of prosecution was not inspiring confidence in support of the charge under Sections 498-A, r/w 34 of IPC. Likewise, he also pointed out that

though there was charge under Section 306 of IPC, but there was no evidence to show that the accused persons have abetted the suicide.

5. On the contrary, it is submitted that in the very dying declarations the deceased has stated that her 'Sarri' accidentally caught fire, therefore, the burns suffered by her were apparently accidental. Considering such quality of evidence on record, learned Counsel submitted that the case of the prosecution was fundamentally weak. That, resultantly, the learned trial Judge committed no error in acquitting the accused. While concluding his argument he submitted that there is no merit in the prosecution case and prays for dismissal of the appeal.

ANALYSIS

6. Perused the evidence of PW-1 mother of the deceased, who deposed that after the marriage of her daughter in April, 2000 with accused Pramod everything was going smoothly for two years and thereafter there was demand of Rs. 1,00,000/- for purchasing auto rickshaw. Her daughter was ill-treated and harassed. Her husband used to beat her after

getting drunk and the in-laws were instigating for beating her. According to her, they got a news about Manda suffering burns. In the hospital, Manda told her brother Girish that accused persons poured kerosene on her and ignited her. But her own brother Girish PW-2, who is examined at Exh. 66, stated that in the hospital Manda told him that there was dispute between herself and her husband and getting fed up of harassment, she set herself on fire.

7. Therefore, PW-1 and PW-2 are contrary to each other. PW-3 and PW-4 are the panchas on seizure of clothes. They have not supported the prosecution story. PW-5 is the pancha on inquest panchanama.

8. PW-6 Ashok is the Special Executive Magistrate, who recorded the dying declaration at Exh. 107 but he stated that Manda reported that a part of 'Sarri' fell on 'Chulla' and she suffered burn injuries. PW-7 and PW-8 are the Police Officers.

9. PW-9 is the Constable who recorded dying

declaration, wherein, she stated that accidentally her 'Padar' of her 'Sarri' fall on the 'Chulla' and she suffered burn injuries, therefore, it apparently seems that the burn injuries suffered by Manda are accidental burns.

10. Thus, PW-1 and PW-2 are making omnibus and general allegations, When the instances of demand, beating and instigation took place is not clarified, or elaborated by any of the witnesses, therefore, with such quality of evidence, in the opinion of this Court, the trial Court has committed no error in acquitting the accused. No purpose would be served by granting the leave to file appeal. There is no merit in appeal. Hence the following order :

ORDER

a) Appeal is dismissed.

[ABHAY S. WAGHWASE]
JUDGE