



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

CRIMINAL APPEAL NO.818 OF 2024

Revnath s/o Pundlik Pawar
Age 43 years, Occ. Private Service
R/o Leha Jahagir, Tal. Phulambri,
District Aurangabad
At present R/o Patoda Shivar,
Taluka & District Aurangabad

... APPELLANT

VERSUS

The State of Maharashtra
Through Police Inspector,
Police Station, Satara,
District Aurangabad
(Copy to be served on the
Public Prosecutor, High Court of
Bombay, Bench at Aurangabad)

... RESPONDENT

.....
Mrs. Renuka Palve (Ghule), Advocate for appellant
Mr. S.D. Ghayal, A.P.P. for respondent – State
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 11th NOVEMBER, 2024

ORAL JUDGMENT (PER : R.G. AVACHAT, J.):

The challenge in this appeal is to a judgment and
order of conviction and consequential sentence, passed by

learned Sessions Judge, Aurangabad in Sessions Case No.92/2014, whereby the appellant was convicted for the offence punishable under Section 302 of the Indian Penal Code and consequently sentenced to suffer imprisonment for life and to pay fine of Rs.1000/-, in default to suffer rigorous imprisonment for 3 months. The appellant was acquitted of the offence punishable under Section 498-A of the Indian Penal Code.

2. Learned Advocate for the appellant would submit that, the children of the appellant who were present in the house, have not been examined. Had they been really examined, the truth would have been revealed. According to her, the deceased would make use of diesel for cooking.

3. The learned A.P.P. would, on the other hand, submit that, the deceased was alcoholic. He did not have a vehicle to run on diesel. The same indicates, he had come prepared with a diesel can to set his wife ablaze and kill her. In short, the learned A.P.P. meant to say that the appellant had an intention to do away with his wife by setting her ablaze. The

learned A.P.P. ultimately urged for dismissal of the appeal.

4. After having heard learned counsel for the appellant and learned A.P.P., we find it to be a case of an offence punishable under Section 304 Part II of the Indian Penal Code. The appellant is behind the bars for little over 11 years. The maximum punishment provided for the offence punishable under Section 304 Part II of the Indian Penal Code is ten years.

5. The appellant had set ablaze his wife by dousing diesel, whereby she died. The record, however, indicates that, it was the appellant who extinguished the fire and rushed the deceased to the hospital. The same suggests, he did not have an intention to do away with his wife. Learned Advocate for the appellant would submit that, the deceased died accidentally while she was cooking. She would make use of diesel as a fuel for cooking. The crime scene panchanama (Exh.17), however, indicates that there was a can containing diesel. The C.A. report (Exh.2) indicates the clothes on the person of the deceased had diesel residues. There are two

dying declarations, one made to the police officer and another to the Executive Magistrate. Both find place at Exhs.15 and 32 respectively. Dr. Eknath Gabale (P.W.2) and Dr. Gajanan Chaudhari (P.W.6) had examined the deceased before recording of her both the dying declarations. They have categorically deposed that the victim was conscious oriented to make a statement and thereafter the same was recorded by the Executive Magistrate Ashok Nandagawali (P.W.5) and Police Head Constable Narayan Butte (P.W.1).

6. As such, the aforesaid evidence undoubtedly indicates that it was the appellant who doused his wife with diesel and set her ablaze. The appellant was addicted to alcohol. He wanted money from her to consume more. Since she refused to pay him, he set her ablaze. But there were mitigating circumstances indicating him to have extinguished the fire and rushed her to the hospital immediately. Moreover, he was under influence of alcohol. The deceased died 8 days after the incident. All these facts indicate that the appellant did not have an intention to kill his wife. In our considered view, the appellant has to be attributed with the knowledge that by

doing such an act, the consequence would be death of the victim/ his wife. In view of the above, the appeal partly succeeds in terms of the following order :

ORDER

- (i) The Criminal Appeal is partly allowed.
- (ii) Conviction of the appellant for the offence punishable under Section 302 of the Indian Penal Code, vide order dated 24/08/2015, passed by learned Sessions Judge, Aurangabad in Sessions Case No.92/2014 is hereby set aside. The appellant is acquitted of the offence punishable under Section 302 of the Indian Penal Code. Instead, the appellant is convicted for the offence punishable under Section 304 Part II of the Indian Penal Code and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.500/- (Rupees five hundred), in default to suffer rigorous imprisonment for two months.
- (iii) It appears that the appellant is behind the bars for little over 11 years. Set off be given as per Section 428 of the Code of Criminal Procedure. The appellant be set at liberty forthwith

if he has really served out the sentence, if not required in any other case.

(iv) Fees of learned Advocate Mrs. Renuka Palve (Ghule), Advocate for appellant, who is appointed through Legal Aid, is quantified at Rs.10,000/- (Rupees ten thousand).

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-