



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 16 OF 2024
IN
CRIMINAL APPEAL NO. 655 OF 2023

Rahul Ambadas Ladhke

..VS..

State of Maharashtra through P.S.O., P.S. Akot City, Dist. Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.M. Daga, Advocate for applicant/appellant.
Mr. A.M. Kadukar, APP for respondent/State.

CORAM : M.W. CHANDWANI, J.
DATED : FEBRUARY 05, 2024

By this application, the appellant is seeking to suspend the substantive sentence passed by Additional Sessions Judge, Akot, District Akola in Session Trial No.17/2018 on 14.09.2023.

2. The appellant and his mother were convicted for the offence punishable under Section 304-B read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for ten years with fine of Rs.25,000/- each in default also to suffer two years imprisonment. The appellant and his mother were also convicted for the offence punishable under Section 498A read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years with fine of Rs.5,000/- each in default also to suffer six months imprisonment.

3. Heard Mr. Daga, learned Counsel for the appellant and Mr. Kadukar, learned APP for the State.

4. The contention of the learned Counsel for the appellant that the learned trial Court has not appreciated the facts in the proper perspective and wrongly hold that there was a demand of dowry. According to him, allegations against the appellant as well as evidence on record reveals that the appellant was demanding to for a Fixed Deposit(FD) with a Bank where he was working, as the Bank was insisting to have FD to get his salary released. It is the contention of the learned Counsel for the appellant that appellant was not demanding the amount for himself, the facts on record goes to shows that he was insisting to have FD in their own name therefore, this does not come within the meaning of dowry as defined under Section 2 of the Dowry Prohibition Act, 1961. He further submits that one Abhijit with whom the deceased was having love affair, committed suicide ten days prior to the death of deceased, therefore, the wife has committed suicide. So, the reason for committing suicide is not harassment as alleged by the prosecution on account of dowry but, due to her love affair with Abhijeet. According to him, the appellant has a good case on merit hence, prays for suspend the sentence and release the appellant on bail.

5. Per contra, learned Assistant Public Prosecutor objected the application on the ground that there are

allegations of demand of dowry of Rs.5,00,000/- in the form of FD with the Bank where the appellant was working. It is submitted that even prior to marriage, there relations was not good on account of non providing valuable gifts by the relatives of the deceased wife. He further submits that learned trial Court has rightly invoked the presumption under Section 113B of the Indian Evidence Act. According to him, the appellant has no case on merit hence, sought rejection of the application.

6. With able assistance of the learned Counsel for the appellant as well as the learned APP for the State, I have gone through the evidence of the complainant. There is version of the complainant/witness that at the time of marriage also the appellant was insisting for lavish marriage. Specific incident which has been deposed by the said witness is that after three to four months of marriage, when the appellant insisted to deceased for asking this witness to invest Rs.5,00,000/- by her father in Dhokeshwar Financial Institution, where he was working. She was also insisted for investment of Rs.2,00,000/- by her other relatives. Apart from these allegations, there is allegation of harassing by the deceased mother-in-law and the present appellant on the count of cooking Khichdi.

7. The learned Counsel for the appellant placed reliance in the case of *Vipin Jaiswal Vs. State of A.P.*,

reported in **2013 ALL SCR 1485**, wherein the demand of the appellant on the deceased for purchasing a computer to start a business after six months of marriage, that scenario the Hon'ble Supreme Court in the said decision has held that the said demand was not in connection with the marriage and not really a 'dowry demand' within the meaning of Section 2 of the Dowry Prohibition Act, 1961.

8. Whether asking the deceased to insist her father to deposit Rs.5,00,000/- as a FD with Dhokeshwar Financial Institution would come within the preview of 'dowry' as defined under Section 2 of the Dowry Prohibition Act, 1961 is the question raised in this appeal. An arguable case is made out on merit, which can be ascertained by scrutinizing the evidence of the prosecution witnesses at the time of final hearing. Considering the pendency, the appeal will take its own time. During the trial the appellant was on bail and has not misused the liberty. The appellant has been convicted for fixed term. Considering this, a case is made out for suspension of sentence by the appellant. Hence, the following order :

- (i) The Criminal Application 16/2024 is allowed.
- (ii) The execution of substantive sentence imposed upon the appellant by Additional Sessions Judge, Akot, District Akola in Session Trial No.17/2018 on 14.09.2023 is hereby suspended till decision of the Appeal.

- (iii) The appellant – **Rahul Ambadas Ladhke** shall be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one solvent surety in the like amount.
- (iv) The appellant shall remain present before this Court at the time of final hearing of the Appeal.

The application is disposed of accordingly.

(M.W. CHANDWANI, J.)

Kirtak