



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO. 113 OF 2024

APPELLANT :

(Father of
deceased
victim)

Vishnu Parasram Rathod – (Father of deceased)
aged about 61 years, Occupation : Agri. Labour,
R/o Gandhi Nagar, Digras, Tq. Digras, Distt.
Yavatmal.

-Versus-

Respondents :

- 1) State of Maharashtra, through Police Station Officer, P.S.Manora, Tq. Manora, District – Washim.
- 2) Nilesh S/o Suresh Ade (Husband of deceased), aged about 46 years, Occupation : Agriculturist,
- 3) Suresh S/o Ramdhan Ade (Father-in-law of deceased), aged about 72 years, occupation : Agriculturist,
- 4) Sau.Savita Suresh Ade (Mother-in-law of deceased) aged about 64 years, Occupation : Agriculturist,
Nos.2 to 4 all R/o. Borva-Prabhu, Tq. Manora, Distt. Washim.
(Nos.2 to 4 accused Nos.1 to 3)

Mr. S. D. Chande, Advocate for the appellant.
Mr. A. B. Badar, APP for respondent No.1.

**CORAM: SMT. VIBHA KANKANWADI &
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 10TH JUNE, 2024

J U D G M E N T (Per : Smt. Vibha Kankanwadi, J.)

The present appeal has been filed under section 372 of the Code of Criminal Procedure by the father of the deceased. The present respondent Nos. 2 to 4 are the original accused, who stood prosecuted for allegedly committing offence punishable under sections 498-A, 304-B and 306 read with section 34 of the Indian Penal Code. The learned Additional Sessions Judge, Mangrulpir acquitted all the accused persons by judgment dated 11/09/2023 in Sessions Trial Case No.19 of 2013 (Old Sessions Trial Case No.128 of 2012).

2. Heard Mr. S. D. Chande, learned Advocate for the appellant and Mr. A. B. Badar, learned APP for the respondent No.1.

3. Since the material required for admission has been placed, we have heard the matter for admission.

4. It has been vehemently submitted on behalf of the appellant that the learned Trial Judge has not appreciated the evidence properly. Deceased Sadhana was the daughter of present appellant, PW-1 Vishnu. Sadhana got married to accused No.1 (respondent No.2

herein) on 14/04/2012. She committed suicide/found dead in unnatural circumstance on 26/06/2012, i.e. within a period of two to two and half months of her marriage. This fact was sufficient to consider the amount of harassment given by the accused to the deceased. Consistent evidence has been adduced to prove that there was illegal demand of Rs.50,000/- by the respondent Nos.2 to 4 for purchasing auto-rickshaw. It was told that unless she brings the said amount, she will not be allowed to cohabit. The respondent Nos.2 to 4 are not denying the fact that Sadhana was found dead in the matrimonial home and the cause of death was asphyxia due to hanging, which ought to have been provided by the accused persons as to what was reason for Sadhana to commit suicide. All these aspects are required to be appreciated and therefore, the matter deserves to be admitted.

5. Taking into consideration the evidence and the reasons given for the acquittal by the learned Trial Judge, it was not even necessary to issue notice to respondent Nos.2 to 4.

6. The relationship between the accused persons *inter se* is not disputed. Respondent Nos.2 and 3, i.e. original accused Nos.2 and 3 are the parents of accused No.1. Accused No.1 is the husband of

deceased Sadhana. It is also not disputed that Sadhana died due to hanging in the matrimonial home, that too, within two to two and half months of marriage. But that is not sufficient to prove the offences charged against the accused persons beyond reasons doubt. The prosecution was duty bound to adduce cogent material and conclusive evidence to prove all the ingredients of the offences with which the accused persons were charged.

7. Perusal of the evidence of the appellant PW-1 Vishnu would show that after marriage, his daughter Sadhana came to his house after about 15 days and then after 2 days, she told her mother that the accused persons had asked her to bring amount of Rs.50,000/- for purchasing auto-rickshaw. Sadhana was not ready to go to her matrimonial home and was telling that the accused persons were harassing her on the count of demand of Rs.50,000/-. Still she was sent along with her brother to her matrimonial home. Then he directly says that he received information regarding death of his daughter on 26/06/2012. Only on the basis of above said evidence, it cannot be said that it is attracting all the ingredients of the offences. Mere a use of the word “harassment” (त्रास) will not be sufficient to attract the ingredients of section 498-A of the Indian Penal Code. The acts of cruelty are required to be narrated so as to know whether those

acts really amount to cruelty. The said term is a relative term. Further, in the absence of those details, it cannot be said that the nature of the cruelty was such that it left no option for Sadhana to commit suicide. In his cross-examination PW-1 Vishnu has admitted that he had not enquired as to whether amount of Rs.50,000/- was sufficient to buy an auto-rickshaw. He had also not made enquiry as to whether accused No.1 was having license to drive auto-rickshaw. He had not called any meeting with the accused persons to resolve the dispute. The said reaction on the part of the father speaks for itself. It would have been a natural conduct on the part of the father to have a dialogue with the accused persons/those persons, who were allegedly harassing his daughter. Another fact to be noted is that in his examination-in-chief he does not specifically say that the said narration or information about harassment was directly given by Sadhana to him, when he says that Sadhana had given that information to his wife. This presupposes that whatsoever he was deposed about it was hearsay evidence. The FIR based on hearsay evidence and then tried to be substantiated will not attract the ingredients of the offences. The prosecution will have to prove the nexus between the alleged harassment and the suicide.

8. The prosecution has tried to support the testimony of PW-1

Vishnu with the testimony of PW-2 Namdeo and PW-3 Uday. Both of them are the neighbours of PW-1 Vishnu. PW-2 Namdeo is also the relative of PW-1 Vishnu. According to PW-2 Namdeo, deceased Sadhana had told him when he had invited her for a cup of tea at his house that accused persons were harassing her by demanding amount of Rs.50,000/- for purchase of auto-rickshaw and if she fails to bring the amount, she should remain with her parents. It is to be noted that in spite of receipt of alleged information, PW-2 Namdeo does not say that he had reacted to the said information. He has also not stated that he had tried to explain the information from PW-1 Vishnu about the same or give advice to PW-1 that they should arrange for a meeting. Further, PW-3 Uday does not say that Sadhana had disclosed that she was harassed by making a demand of Rs.50,000/-. According to him, Sadhana told him that her husband was demanding Rs.50,000/- for auto-rickshaw, thereby he is ruling out the alleged act on the part of accused Nos.2 and 3.

9. The prosecution has not taken efforts to examine the wife of PW-1 Vishnu to whom Sadhana had allegedly given the information. The prosecution has also not examined PW-1's son Krishna, who had gone to fetch Sadhana from her matrimonial home and had also gone to leave her there. They could have thrown light on the behaviour of

Sadhana at the relevant times.

10. Thus, taking into consideration the testimony of these prosecution witnesses, it is not even necessary to go to the other evidence, i.e. in the form of spot panchanama, inquest panchanama, postmortem report, etc. as the substantial evidence does not show that there was harassment to the deceased amounting to cruelty and the said cruelty was of such a nature that deceased had no option but to commit suicide. Unless the basic ingredients are proved, it cannot be said that any of the offence has been proved by the prosecution beyond reasonable doubt.

11. We do not find any illegality or error committed by the learned Trial Judge in acquitting the respondent Nos.2 to 4. No interference is required and therefore, the matter deserves to be dismissed at the threshold. Accordingly, the appeal is dismissed.

(MRS.VRUSHALI V. JOSHI, J)

(SMT.VIBHA KANKANWADI, J)