



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

CRIMINAL APPEAL NO. 321 OF 2006

The State of Maharashtra

... Appellant

Versus

1. Dnyaneshwar S/o. Jalindar Tondule
Age : 24 years.
2. Jamunabai W/o. Jalindar Tondule
Age : 45 years.
3. Subhash S/o. Shriram Tekade
Age : 32 years.

All residents of Nutan Wasahat,
Jalna.

... Respondents
(Orig Accused)

.....

Mr. N. D. Batule, APP for Appellant – State

Mr. Sudarshan J. Salunke, Advocate for Respondents No.1 to 3

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 25 JULY, 2025

Pronounced on : 07 AUGUST, 2025

JUDGMENT :

1. The instant appeal has been filed on behalf of the State against the judgment and order dated 19.01.2006, passed by the learned 1st Ad-hoc Additional Sessions Judge, Jalna, thereby acquitting the present respondent from charges under Sections 498-A and 306 read with Section 34 of the Indian Penal Code [IPC].

FACTS LEADING TO PROSECUTION'S CASE ARE AS UNDER

2. Deceased Indubai, daughter of PW-2 was married to respondent No.1 Dnyaneshwar in March 2001. Few days after the marriage, accused/husband and in-laws started taunting Indubai on her inability to cook properly. There was taunting on her complexion and she was abused and given beating. Deceased Indubai reported the incidents to her brother and parents. The case of prosecution is that, due to persistent maltreatment mentioned above, deceased Indubai jumped into a well and committed suicide. A report to that effect was lodged by Ramprasad (PW1), i.e. brother of the deceased, on the strength of which, investigation was carried out.

3. After gathering sufficient evidence, accused were chargesheeted. Before the trial Court, the prosecution, apart from the documentary evidence, adduced evidence of brother and parents.

4. After recording the statement of the accused under Section 313 of the Code of Criminal Procedure, the arguments of both sides were heard by the learned trial Judge, and by judgment and order dated 19.01.2006, the accused were acquitted of both the charges.

Feeling aggrieved by the same, the State has preferred the instant appeal.

SUBMISSIONS

On behalf of the appellant - State:

5. The learned APP submitted that there was cogent, convincing, reliable and trustworthy evidence on record. That, immediately after marriage, the husband and in-laws subjected deceased Indubai to maltreatment. That, she was continuously abused and beaten for not preparing food properly. That, there was continuous taunting to her on her complexion and thereby Indubai was subjected to both, physical and mental cruelty. Learned APP pointed out that, marriage was of March 2001. That, apparently after few years i.e. in January 2004, Indubai committed suicide while she was in the custody of husband and in-laws. That, there is convincing and consistent evidence of brother and parents of deceased Indubai. That, there was no other reason for her to end up her life. Therefore, on both counts i.e. cruelty and abetment to commit suicide, it is submitted that, full proof case for conviction was made out. That, evidence was not properly appreciated by the learned trial Judge and hence, he urges for interference by allowing the appeal.

On behalf of Respondents :

6. In answer to above, learned counsel for the respondents pointed out that, prosecution has miserably failed to establish the charges. According to him, there was no mental or physical cruelty as alleged. He submitted that the brother, who stayed with the deceased, did not make any complaint. That, parents have hearsay information. That, allegations are general and omnibus in nature. He further submitted that, the incidents were not spelt out clearly. There is a possibility that the deceased met with an accidental death and, according to him, there is no evidence to show that the deceased fell into the well on the fateful day. That, there was no physical or mental maltreatment so as to connect the accused persons to the same. Therefore, he supports the impugned judgment of acquittal and prays dismissal of the appeal for want of merits.

EVIDENCE BEFORE THE TRIAL COURT

7. In support of its case, prosecution has adduced evidence of in all four witnesses. Their role and status is as under :

PW1 Ramprasad is the brother of deceased Indubai. He deposed at Exhibit 25 as under:

"1. Deceased Indubai was my sister. The incident of Indubai was occurred before two years. Before 2½ or three years before incident marriage of Indubai was performed with accused Dnyaneshwar. I identify accused 1 to 3 present in the dock of the court.

2. On 11th March, 2001, marriage of Indubai was performed and then for one month there was nice cohabitation. Then there was my examination at Jalna, so I stayed for 2 or 3 months at Jalna. At that time I stayed at the matrimonial house of Indubai. At that time ill-treatment to Indubai was going on. All accused were giving abuses to her, beating to her. They used to say that she was cooking more and making it waste. There were quarrels between Indubai and her husband of trifle grounds. As I was there so I used to give understanding that such things happen and not to take it seriously.

3. Then my examination was over, so I returned to my village. Then I informed to my parents that Indubai was harassed. Then my father and maternal uncle came to meet Indubai at Jalna. Then they inquired with Indubai. Then Indubai informed to them that she was beaten daily. Then my father and maternal uncle had given understanding to Indubai as well as to accused Dnyaneshwar and to her mother not to beat her. Then they returned to the village. I used to meet Indubai at the intervals of 8 or 15 days by visiting to her house. Further during festivals I used to bring her at my house. Some times during festivals accused were not sending

to Indubai at my house and if they would send then they were compelling me to send Indubai on the next day and to take her to her house. When I used to meet her then she was informing to me that she was harassed by accused. Then I informed these incidents to my elder maternal uncle. Then on next day he went to Jalna. Then he had brought Indubai at my house Then Indubai informed that Dnyaneshwar and his mother were continuously harassing to her. She had also informed that accused No. 3 Subhash had an ill intention against her. She had also informed that accused Subhash intending to keep physical relations with her. On her refusal, for such relations, accused Subhash was creating misunderstanding in the mind of accused no. 1 and 2 against Indubai was also informed by her. Accused Subhash used to tell to accused Dnyaneshwar that Indubai was having black complexion and that he would perform marriage of Dnyaneshwar with other lady who would be more good ? than Indubai. So she was put to more harassment.

4. On 9.11 when Indubai was at our house, she had received one notice sent by Advocate Sanjay Gaikwad. Then on 14.11 my mother and father had taken Indubai at village Amba i.e. at the house of my maternal uncle. Then maternal uncle of accused Dnyaneshwar came at Amba. Then compromise was effected between my parents, maternal uncle on one side and maternal uncle of Dnyaneshwar on the other side. Hiranman i.e. maternal uncle of Dnyaneshwar informed to my parents to send Indubai at the house of accused with an assurance that she would not be ill-treated in

future and to send her. So, believing in their words Indubai was send for cohabitation at their house.

5. Then on 23.1.2004 my maternal uncle namely Sopan came at my house and informed that he had received phone at Jalna that Indubai became dead and to visit immediately. Then myself, my mother, my cousin brother and maternal uncle and relatives came at Civil Hospital, Jalna. Then PSI informed that in the well situated in Rohanwadi Shivar Indubai was found dead. When we went in the hospital dead body of Indubai was lying in the mortuary of Civil Hospital, Jalna. Indubai was frustrated on account of ill-treatment caused by all accused and so committed suicide. After seeing the dead body I went at police station and lodged complaint. Now I am shown FIR from the court file. On perusing it I state that it bears my signature at the foot of the contents. On going through the contents I state that contents therein are correct. FIR is now marked at Ex. 26.

6. Then we had taken dead body of Indubai at our village and performed funeral there.”

PW2 Babarao is the father of deceased Indubai. At Exhibit 27, he deposed as under:

“1. Indubai was my daughter. The incident of Indubai occurred before 15 year from today. Before 2 years before incident Indubai was married with accused Dnyaneshwar. I identify accused 1 to 3 sitting in the dock of the court. For one month after marriage there was nice cohabitation. Then

my son namely Prasad P.W.1 stayed at Jalna for one month for his examination purpose. When Prasad returned to village then informed to me that all accused were ill-treating and beating to Indubai Indubai. Then I came to Jalna and had given understanding to accused not to ill-treat and beat Indubai but try to understand. My son Prasad used to visit to Indubai at the intervals of 8 or 15 days. Then I was seeking information from him about Indubai. Prasad was informing to me that ill-treatment to Indubai was continuing.

2. Then myself and maternal uncle of Indu namely Gopinath went to the house of accused at Jalna. Accused Jamnabai and Dnyaneshwar were beating to Indubai. When I went to their house they told to me that Indubai was preparing more food and wasting it.

3. Thereafter two years myself and maternal uncle of Indubai namely Gopianth again went to the house of accused. Then we have given understanding, then accused demanded Rs. 10,000/- for ve taking bore in the field. However, I informed to them that I was not having Rs. 10,000/- but if I receive from somebody, I will pay it.

4. Then in the year 2003 I again went to meet Indubai at her house. Then accused Dnyaneshwar and Jamnabai asked me as to what happen about amount demanded by them. I informed to them that I was unable to satisfy their demand as I am not having that much amount. At that time accused had given abuses to me. Then I returned to my village.

5. *Then at the time of marriage of my son Prasad, Indubai was brought at my house. At that time Indubai further informed about oc ill-treatment and informed that accused Subhash had an ill eye against her and that they were telling about her black complexion. At that time she informed that she was not ready for cohabitation. Then accused Jamnabai and Dnyaneshwar sent notice to Indubai for restitution of conjugal rights. After receiving notice myself, my wife Rukman went at the house of maternal uncle of Indubai at village Amba. Maternal uncle of accused Dnyaneshwar, namely, Hiranman came at Amba to take Indubai at his house. Then the relatives had given understanding, accused had given assurance not to ill-treat and in order to avoid destruction of marriage of Indubai and Dnyaneshwar, Indubai was sent back for cohabitation.*

6. *When I was at Pune, then I had received phone of my son that Alndubai died, at 12 noon time. Then when I made communication to my family members, then they told me that they were taking dead body to Zari so to come at Zari. So, I went at Zari. I reached there by 4 a.m., by that time funeral was performed. On next day, i.e. On 24th January, my statement came to be recorded by police at police station.”*

PW3 Sopan is the maternal uncle of deceased Indubai. He deposed at

Exhibit 28 as under:

“1. Indubai was daughter of my sister. On 11th March, 2001 Indubai was married to accused Dnyaneshwar. I identify accused 1 to 3 sitting in the dock of court hall.

2. After one month of marriage Indubai was ill-treated by accused. My sister Rukmanbai informed to me about it. Equally, Indubai also informed to me about it. When during Diwali festival and summer season I was visiting at the house of Rukmanbai then she was informing about ill-treatment caused to Indubai by accused.

3. On one day I received phone from Jalna and it was communicated that Indubai died. Then I went at Zari. Then alongwith the parental family members of Indubai, I came at Jalna at Civil Hospital. Then I have seen dead body of Indubai. Then FIR was lodged and dead body of Indubai was taken to Zari. Funeral was performed at Zari. On 23.01.2004 police recorded my statement.”

PW4 Shivaji Budhwant, P.S.I was the Investigating officer.

8. Appellants were made to face trial on charge under Sections 498-A and 306 of IPC.

9. Before adverting to the evidence of the prosecution witnesses on the point of cruelty as well as abetment to commit suicide as contemplated under Sections 498-A and 306 of the IPC, it would be just and proper to set out the relevant judicial precedents for attracting the charges.

LEGAL POSITION

10. Law is fairly settled that, for attracting the charges under Section 498A of IPC, prosecution is duty bound to prove following essential ingredients :-

- “(1) A woman was married;*
- (2) She was subjected to cruelty;*
- (3) Such cruelty consisted in -*
 - (i) any lawful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical;*
 - (ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the lawful demand ;*
 - (iii) the woman was subjected to such cruelty by her husband or any relation of her husband.”*

11. Section 306 of the IPC deals with abetment to commit suicide.

Ingredients of this section are as under :

- (1) There was suicide of a person;*
- (2) It was committed in consequence of abetment of the accused.*

In order to attract the charge of section 306 of IPC, it is incumbent upon prosecution to establish **incitement, instigation,**

aiding or abetment to commit suicide. Law to this extent has been fairly settled in series of cases. Scope of Sections 107 and 306 IPC has been time and again decided by the Hon'ble Apex Court in the cases viz; *State of West Bengal v. Orilal Jaiswal* (1994) 1 SCC 73; *Ramesh Kumar v. State of Chhatisgarh* reported in (2001) 9 SCC 618; *Sanju @ Sanjay Singh Sengar v. State of M.P.* reported in (2002) 5 SCC 371; *Chitresh Kumar Chopra v. State* (2009) 16 SCC 605; *Amalendu Pal alias Jhantu v. State of West Bengal* (2010) 1 SCC 707; *State of West Bengal v. Indrajit Kundu and others* (2019) 10 SCC 188; *Rajesh v. State of Haryana* (2020) 15 SCC 359; *V.P.Singh etc. v. State of Punjab and others* 2022 SCC Online SC 1999 and very recently in the case of *Kumar @ Shiva Kumar v. State of Karnataka* [Criminal Appeal No. 1427 of 2011 decided on 01.03.2024],

In above series of cases, it has been held and reiterated that court should be extremely careful in assessing the facts and circumstances of each case as well as the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. Principle that is culled out is that accused persons should specifically intent that deceased should end up her life. With that sole object in mind, they must have deliberately created circumstances, which are

of such nature, that deceased is left with no other alternative but to end up her life. Only in such circumstances charge of abetment to commit suicide can be said to be successfully brought home.

Keeping above legal position in mind, evidence of prosecution is to be scrutinized.

ANALYSIS

12. Here, crucial evidence is of brother and parents. On re-analysis and re-appreciation of the evidence, it is seen that, according to PW-1 Ramprasad, the informant and brother of the deceased, his sister was married to accused Dnyaneshwar two years back. He stated that, for about one month, there was proper cohabitation. He claims that, during his examination period, he had stayed with his sister for 2 to 3 months at Jalna, i.e. at her matrimonial house. He deposed that during that time, he noticed ill-treatment committed against his sister. He stated that, the accused repeatedly abused her saying that she was cooking too much and wasting food. He also stated that there were quarrels between his sister and her husband/accused on various counts. He claims that, when he returned home, he informed his parents and maternal uncle and as such, they went to give understanding to the accused. He claims that, after intervals of 8 to

15 days, he used to visit his sister and that, accused was not sending his sister for festivals. He stated that, whenever he met his sister, she complained of harassment. He claims to have informed the same to his maternal uncle and on next day, maternal uncle went to Jalna and brought her back to her parental home. At that time also, she informed that accused no.3 had evil eye on her. That, accused no.3 Subhash had comment on her complexion. He further deposed that while his sister was at their house, a legal notice was served on her; consequently, she was taken back to the accused and a compromise was effected, during which the accused assured that she would not be ill-treated. On 23.01.2004, he received news that his sister had fallen into well, and therefore, he lodged the report.

While under cross, he admitted that his sister was well acquainted with household work and also did agricultural work. He denied about knowing whether at the time of death of his sister, work of digging the well was going on, but he admitted that, field of Dnyaneshwar is adjacent to the well. He admitted in paragraph 9 that, since two months prior to the receipt of notice to his sister, she was at their house. He admitted that, when his father and uncle went to the house of accused, he did not accompany them.

13. PW-2, father Baburao stated that for one month after the marriage, there was proper cohabitation. However, thereafter his son Prashad (PW-1) stayed at his sister's place at Jalna for one month. When Prasad (PW-1) returned home, he informed them that all the accused were ill-treating and beating Indubai and so he gave understanding to accused not to ill treat and beat Indubai. He claims to be seeking information from his son whenever he visited his sister. He has stated about demand of Rs.10,000/- by accused for taking bore well (However, brother has not uttered or disclosed anything about such demand). He stated that his daughter Indubai informed him that accused Subhash had an evil eye on her and that all the accused were taunting on her dark complexion. He admitted about receipt of notice to Indubai for restitution of conjugal rights.

While under cross, he answered that till today he had not informed his son Prasad about demand of Rs.10,000/- by accused.

14. PW-3 Sopan, the maternal uncle of deceased Indubai, stated that during Diwali and summer, when he visited the house of his sister Rukmanbai, he learnt about the ill-treatment to Indubai.

In cross, he admitted that, he received information about ill treatment to Indubai from his sister Rukmanbai.

15. Therefore, on re-appreciation of the evidence, it is emerging that the marriage took place in 2001, death of Indubai occurred between 11.00 a.m. of 22.01.2004 to 8.30 a.m. of 23.01.2004 and the dead body was found on 23.01.2004. However, what actually happened on during the said period is a mystery.

16. On re-analysis of the evidence, particularly the evidence of the brother, father, and uncle, it is seen that the allegations are general and omnibus in nature. The brother, who had stayed at his sister's place, has levelled general allegations regarding taunting on account of cooking food and on her complexion. He did not depose about the alleged demand of Rs. 10,000/- for taking a bore well. Likewise, even the father and uncle seem to have hearsay information. Their evidence is also non specific, and, moreover, is not consistent with that of PW-1 brother. Therefore, there is little or no substantive evidence on the point of cruelty to attract the provisions of Section 498-A of the IPC.

17. Here, there is also charge of 306 of the IPC. The prosecution story is that, because of cruelty meted out by accused persons, deceased Indubai jumped in the well and committed suicide. The alleged incident is of 22.01.2004 to 23.01.2004. However, what

exactly happened in proximity to above dates is not getting clear. There is no iota of evidence to show that, in proximity to alleged suicide by jumping in the well, there was consistent harassment or ill treatment which compelled deceased to take extreme step of ending up her life. Necessary ingredients like abetment to commit suicide are patently missing from the prosecution evidence. For all above reasons, no fault can be found in the order of acquittal passed by the learned 1st Adhoc Additional Sessions Judge, Jalna. No case being made out on merits, appeal deserves to be dismissed. Accordingly, I proceed to pass the following order :

ORDER

The Criminal Appeal is dismissed.

**ABHAY S. WAGHWASE,
JUDGE**

S.P. Rane