



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

CRIMINAL APPEAL NO. 264 OF 2021

Subhash Gorakh Dalve
Age: 31 years, Occu.: Nil,
R/o Chaundhala, Tq. Paithan,
Dist. Aurangabad

..APPELLANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. A.K. Bhosle, Advocate for appellant
Mrs. K.B. Patil Bharaswadkar, Addl.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 11th FEBRUARY, 2025**

ORAL JUDGMENT :

1. The challenge in this appeal is to the judgment of conviction and order of consequential sentence dated 25th March, 2021 passed by the Court of Additional Sessions Judge, Aurangabad ('trial Court') in Sessions Case, No. 118 of 2018. Vide the impugned judgment and order, the appellant has been convicted for the offence punishable under Section 307 of the Indian Penal Code ('I.P.C.'), and therefore, sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- with default stipulation.

2. This appeal is heard only on the limited question as to quantum of sentence. The appellant is the husband of Vidya (victim). Vidya had been to her parental house. The appellant went there on 05th January, 2018 and

assaulted Vidya with an axe. It was a bid on her life. The appellant would also ill-treat her. Section 498-A of the I.P.C. was, therefore, invoked against him besides Section 307 of the I.P.C. He was, however acquitted of Section 498-A.

3. The question is whether sentence of imprisonment for life for the offence punishable under Section 307 of the I.P.C. is proportionate to the crime committed by the appellant.

4. Learned counsel for the appellant would submit that the appellant had been to the house of his in-laws to get his wife back to her matrimonial home. However, she did not join him. He was enraged thereby and consequently the incident occurred.

5. Learned Addl.P.P. would, on the other hand, submit that had really the appellant been to the house of his in-laws with a view to get his wife back to her matrimonial home, he would not have carried the axe with him. The appellant assaulted Vidya on her head and other vital parts of the body. The same indicates the appellant's intention was to do away with his wife. She, therefore, submitted that the trial Court has rightly sentenced the appellant for imprisonment for life.

6. Learned counsel for the appellant, on instructions, submitted that the appellant's wife (Vidya) has been fully recovered and she has contracted

second marriage. These facts are post passing of the impugned judgment herein. There is no material in support of the contention of the appellant.

7. Vidya's injury certificate indicates her to have suffered deep incised wound over scalp, CLW on back side of neck and CLW over left and right forearms besides blunt trauma.

8. Vidya was examined as Witness No. 1 in the case. She had come to the Court to give her evidence. Same indicates her to have been recovered of the injuries she suffered at the hands of the appellant. The appellant is behind the bars for little over seven years. Her evidence indicates that the appellant had been to her to get her back to her matrimonial home. She had been to the field to pluck cotton. She had reason to refuse to join him. According to her, the appellant would suspect her character, and therefore, used to beat her up. As she refused to join him for cohabitation, the appellant assaulted on her head with an axe and gave another blow on her ear.

9. Thus, the facts and circumstances of the case indicate that the appellant had been to the village of his in-laws to get his wife back to his home. His wife refused to accompany him. He, therefore, assaulted her with an axe. It is not known whether he carried the axe from his home or took it in the field where the incident took place. Be that as it may. In our considered view, the sentence of imprisonment for life for the given offence is grossly

disproportionate. Vidya appeared in person to give evidence suggest her to have been recovered. We are, therefore, inclined to partly allow the appeal in terms of following order :-

ORDER

- (I) Criminal appeal is partly allowed.
- (II) Impugned judgment and order dated 25th March, 2021 passed by the Court of Additional Sessions Judge, Aurangabad in Sessions Case, No. 118 of 2018, is hereby set aside only to the extent of quantum of sentence imposed against the appellant.
- (III) The sentence imposed against the appellant is reduced from life imprisonment to rigorous imprisonment for seven and half years (7 ½) years with fine of Rs.1,000/- (Rupees One Thousand).
- (IV) Fine amount, if already paid, be adjusted and excess amount be refunded to the appellant.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

SSD