



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

954 CRIMINAL APPEAL NO. 653 OF 2005

The State of Maharashtra,
Through PSO Dindrud Police Station,
Tahsil Majalgaon, Distrit. Beed.

..Appellant
(Ori. Complainant)

VERSUS

1. Bharat S/o Radhakishan Mane,
Age : 27 Years,
2. Radhakishan s/O Raibhan Mane
abatted.
3. Mandubai W/o Radhakishan Mane,
Age : 55 Years,

All resident of Pusra Tahsil Wadwani,
District Beed.

.. Respondents
(Ori. Accused)

...

A.P.P. for Appellant/State : Mr. Rajdeep R. Raut
Advocate for Respondent No.1 : Mr. Aniket Wadwale h/f
Mr. A. M. Gaikwad

...

**CORAM : SANDIPKUMAR C. MORE, J.
DATED : MARCH 07, 2025**

JUDGMENT:-

1. The appellant /State has preferred this appeal, against the Judgment and order dated 03.05.2005, in Sessions Case No. 56 of 2004 (old Sessions Case No. 94 of 2004), passed by the learned trial Court i.e. learned Additional Sessions Judge, Majalgaon, District Beed. Under the impugned judgment, all

the respondents/accused are acquitted from the charges under Sections 498-A, 306, read with Section 34 of the Indian Penal Code (for short, 'I.P.C.'). During the pendency of this appeal, respondent No.2, Radhakishan i.e. accused No.2 died, and hence proceeding against him, stood abated.

2. As per the case of the prosecution, Pushpa i.e. daughter of the informant Dwarkabai got married with respondent No.1 Bharat, four years prior to the incident i.e. around the year 2000. After marriage, Pushpa was residing with the respondents. The respondents treated Pushpa properly for initial two years, but thereafter, started ill-treating her. They used to call her '*Vanzoti*' (infertile). They also used to demand amount of Rs. 25,000/- for grocery shop. Pushpa used to disclose this ill-treatment, whenever she comes to her parental house. Ultimately on 16.01.2004, having fed-up with the ill-treatment by the respondents/accused, she set her ablaze by pouring kerosene on her person, at about 10.00 p.m. She was immediately taken to the hospital, but due to 98% burn injuries, she succumbed to those injuries, on 21.01.2004. The informant lodged the report against the respondents on 24.01.2004, and accordingly they were charge sheeted for the aforesaid offence. The trial Court, after conducting the trial,

acquitted the respondents/accused.

3. The learned A.P.P. strongly submitted that the prosecution witnesses have corroborated each other in material particulars in respect of the ill-treatment of deceased Pushapa, at the hands of all the respondents. He pointed out that commission of suicide is not in dispute, however, it definitely indicates the gravity of ill-treatment, which deceased Pusha suffered from the accused. The evidence of prosecution witnesses, who are the relatives of deceased Pushpa, have clearly indicated that Pushpa had narrated about her ill-treatment to them. Thus, he prayed for reversal of the judgment.

4. On the contrary, the learned counsel for the respondents/accused submits that, the learned trial Court has rightly appreciated the evidence on record, and thereafter by considering the material discrepancies, acquitted the respondents/accused. According to him, there was also delay in lodging the F.I.R. The evidence on record about the ill-treatment is also not convincing, and therefore, it would be difficult to record conviction against the respondents on the basis of same.

5. Heard rival submissions and also perused the record and proceedings, along with the impugned judgments.

6. It appears that prosecution has examined in all six witnesses, namely Dwarkabai, i.e. mother of deceased as PW-1, Dr. Rajendra, the Medical Officer, who conducted the Post-Mortem as PW-2, Madhukar Ingole, i.e. maternal uncle of the deceased as PW-3, Dattatraya cousin of the deceased as PW-4, Lata Ingole, sister of the deceased as PW-5 and lastly the Investigating Officer, PW-6 Balasaheb Kale. It is not in dispute that, Pushapa committed suicide by setting her ablaze in the house of the accused. However, as per the case of prosecution, she committed suicide mainly because all the respondents/accused were harassing her on the ground of not having child, and demand of Rs. 25,000/- for running grocery shop. It is significant to note that the independent prosecution witnesses, are not there, but only the close relatives of the deceased are examined. As such, their evidence is to be scrutinized with utmost caution.

7. There is no dispute about cordial behavior of the respondents/accused in first two years of the marriage. However, the ill-treatment as mentioned above, allegedly started from third year of the marriage. The informant

Dwarkabai, in her evidence, has deposed that deceased Pushpa made disclosure about said ill-treatment for the first time, two years before of the incident. However, PW-3 Madhukar has deposed contrary to it, and stated that, said disclosure was in fact one year before the incident. As such, there is ambiguity in respect of the exact time, when the Pushpa disclosed about the ill-treatment, for the first time. It is also important to note that as per the prosecution witnesses, Pushpa used to come to parental house each year on account of 'fair'. Though informant Dwarkabai and PW-3 Madhukar made no reference about presence of respondent No.1 Bharat with her, but according to PW-4 and PW-5, Bharat had been to village Bhogalwadi, for attending 'fair' along with Pushpa. Further, it is contended by the prosecution witnesses that, Pushpa was beaten by Bharat, at Bhogalwadi specially in presence of PW-4 Dattatraya. However, by that time, Pushpa had only made disclosure about alleged demand of Rs. 25,000/- by the accused, which was yet to be complied. Therefore, the beating incident of Pushpa, at the hands of Bharat, as stated by PW-4 Dattatraya, appears hypothetical and imaginary.

8. Further, as per the prosecution, Pushpa committed

suicide, due to her insult, on the part of respondents/accused, by saying her as '*Vanzoti*'. However, merely calling '*Vanzoti*' to Pushpa will not amount to cruelty, as contemplated in Section 498-A of the I.P.C. As per the definition of 'cruelty' in Section 498-A of the IPC, the gravity of 'cruelty' must be as such that it would drive the wife to commit the suicide. There are many judgments of this Court as well as Hon'ble Apex Court, that mere utterance of insulting words cannot be treated as 'cruelty'. Even it is settled that, the words 'go and die' uttered by the accused are not sufficient to establish the 'cruelty' leading to commission of suicide. Further, it is highly unbelievable that despite such repeated harassment nobody from the parental side of the deceased had lodged the report to the Police, during the period of two years of such harassment.

9. It is also important to note that, the incident of burning, had taken place on 16.1.2004 and the prosecution witnesses, who are the relatives of the deceased were well aware about the ill-treatment of Pushpa, did not even care to raise grievance by filing report to the police, especially when Pushpa was alive till 21.01. 2004, and was admitted to the hospital. Even after her death, the F.I.R was lodged three days after, i.e. on 24.01.2004. Therefore, delay in lodging of F.I.R. also appears to be doubtful

and it might have done as an afterthought.

10. Therefore, considering the evidence on record in its entirety, it certainly gives an impression that, there are various contradictions and discrepancies among the versions of close relatives of the deceased. There is no independent witness examined by the prosecution in respect of the behavior of respondents/accused, with the deceased, when she was residing with them at Pusra. Therefore, considering all these aspects, the evidence of guilt of accused adduced by the prosecution has definitely fallen short to record conviction against them. As such, the acquittal of the respondents/accused recorded by the learned trial Court, needs no interference. Resultantly, the appeal stands dismissed.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni