



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.691 OF 2005

1. Ranjitsing s/o Bhagatsing Patil,
Age : 24 years, Occ : Labour,
R/o Ranjani, Tq. Jamner,
Dist. Jalgaon.
 2. Bhagatsingh Shankar Patil.
Since died, the appeal is abated
as per order dated 01.07.2016.
- ...Appellants/ accused 1 and 2

- *Versus* -

The State of Maharashtra.

...Respondent/ State.

...

Shri Prakash B. Patil, advocate for the appellants.
Shri V.M. Lomte, APP for the respondent/ State.
Shri Dushyant S. Bhapkar, advocate for the intervenor.

...

WITH
CRIMINAL APPLICATION NO.4621 OF 2023
IN
CRIMINAL APPEAL NO.691 OF 2005

Vasantsing Pralhadsing Patil,
Age : 63 years, Occ : Agri,
R/o Wakadi, Tq. Jamner,
Dist. Jalgaon.

...Applicant/ Intervenor

- *versus* -

1. Ranjitsing Bhagatsing Patil,
Age : 48 years, Occu : Agril,
R/o Rajni, Tq. Jamner,
Dist. Jalgaon.

2. Bhagatsing Shankar Patil (died).
Appeal abated as per order
dated 01.07.2016.

3. The State of Maharashtra.

...Respondents

...

Shri Dushyant S. Bhapkar, advocate for the applicant/ intervenor.

Shri Prakash B. Patil, advocate for the appellants.

Shri V.M. Lomte, APP for the respondent/ State.

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CORAM : SUSHIL M. GHODESWAR, J.

Reserved on : 26 November 2025

Pronounced on : 16 December 2025

JUDGMENT :-

1. Heard.

2. For the reasons stated in Criminal Application No.4621/2023, same is allowed and the applicant is permitted to assist the Public Prosecutor during the course of hearing of the appeal.

3. By this appeal filed under Section 374(2) of the Code of Criminal Procedure (for short, 'the CrPC'), the appellant No.1/ accused No.1 challenges the judgment and order dated 28.09.2005 passed by the learned 4th Ad hoc Additional Sessions Judge, Jalgaon, in Sessions Case No.50/2005, operative part of

which is as under:-

“The accused No. 1 Ranjitsing Bhagatsing and accused No. 2 Bhagatsing are convicted under section 235(2) of the Code of Criminal Procedure, of the offence punishable u/s 498-A, 306 r/w S 34 of the Indian Penal Code.

The accused No.1 Ranjitsing is sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs. 2000 in default of payment of fine to suffer rigorous imprisonment for 3 months so far as offence punishable u/s 498-A r. w. 34 of IPC is concerned.

The accused No.1 Ranjitsing is further sentenced to suffer rigorous imprisonment for 5 years, and to pay a fine of Rs. 3000/- in default of payment of fine, to suffer rigorous imprisonment for six months for the offence punishable u/s 306 r/w 34 of IPC.

The accused No.2 Bhagatsing, is sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs. 2000 in default of payment of fine to suffer rigorous imprisonment for 3 months so far as offence punishable u/s 498-A r. w. 34 is concerned.

The accused No.2 Bhagatsing is further sentenced to suffer rigorous imprisonment for 5 years, and to pay a fine of Rs. 3000/- in default of payment of fine, to suffer rigorous imprisonment for six months for the offence punishable u/s 306 r/w 34 of IPC.

The substantive sentences imposed on both the accused persons shall run concurrently.

The accused Nos 1 and 2 shall surrender to their bail bonds.

Accused Nos.3 Shakuntala bai, No.4 Kiran and No. 5 Munni @ Vaishali are hereby acquitted of the offence punishable u/s 498-A, 306 r/w 34 of Indian Penal Code. Their bail bonds stand cancelled.

The seized property being worthless be destroyed after the period of appeal is over.”

4. The brief facts leading to filing of the present appeal

are as under:

(a) The prosecution case is that in all five accused were prosecuted for the offences punishable under Sections 498-A and 306 read with 34 of the Indian Penal Code, on the allegation that they subjected deceased Varsha, wife of accused No.1 Ranjitsing, to cruelty and harassment, due to which she committed suicide. The complainant PW-1 (Vasantsing Patil), who is father of deceased Varsha, lodged FIR No.13/2005 on 21.01.2005 alleging that the deceased Varsha had married accused No.1 (Ranjitsing) on 01.04.2002 and thereafter, resided with him and his family at village Ranjani, Taluka Jamner, District Jalgaon. Accused Nos.2 and 3 are the parents of accused No.1, while accused Nos.4 and 5 are his sisters.

(b) Soon after the marriage, Varsha was allegedly being harassed by the accused on different counts, namely, that she did not have experience of agricultural work, she is black in complexion, and for not bringing sufficient money from her parental home. She was allegedly subjected to humiliation, abuse, and assault. It is further alleged that the accused demanded money from Varsha's parents on multiple occasions on

account of medical expenses during her pregnancy, Rs.25,000/- for purchase of motorcycle, and subsequently for Rs.50,000/- for purchase of thresher. On some occasions, Varsha reportedly returned to her parental home narrating such ill-treatment, and at times, the accused allegedly refused to keep her unless their demands were fulfilled.

(c) On 22.05.2003, Varsha was hospitalized at Jalgaon due to vomiting and giddiness. She informed her parents that the accused were harassing her and making monetary demands. After delivery of a son, Varsha stayed with her parents for about 11 months, during which none of the accused allegedly visited her. It is alleged that after the death of grandmother of accused No.1, Varsha was taken back to her matrimonial home, but only after her father paid Rs.25,000/-. It is alleged that after the death of the complainant's wife on 05.11.2004, Varsha told that there is again demand of Rs.50,000/- from the accused persons and she was allegedly threatened not to come back unless and until the said demand is fulfilled.

(d) On 21.01.2005, the complainant (PW-1) received information through PW-6 (Ghansham) that Varsha had fallen seriously ill and, therefore, the accused wanted to shift her to the

hospital at Jalgaon. Therefore, the complainant (PW-1) along with his brother Keshav Patil and other relatives proceeded towards Jalgaon. However, when they were on way to Jalgaon, they received a telephonic call that Varsha was taken to Jamner and was admitted in the Government Rural Hospital at Jamner. When the complainant (PW-1) and others reached the Government Rural Hospital at Jamner, Varsha was found dead.

(e) Thereafter, an inquest panchanama was conducted and the body was sent for post-mortem. As the death appeared suspicious, viscera was preserved and sent for chemical analysis. Thereafter, the dead body was handed over to PW-1 complainant and the funeral took place.

(f) On 21.01.2005, the complainant lodged the FIR alleging that due to ill treatment at the hands of the accused, Varsha committed suicide by consuming poisonous substance.

5. After completion of investigation, the charge-sheet was filed. Since offences were triable by the Sessions Court, the case was committed to the Sessions Court. The learned Additional Sessions Judge framed charge at exhibit 9 against the accused persons for offences punishable under Sections 498-A,

306 and 34 of the Indian Penal Code. The accused pleaded not guilty and claimed to be tried. The prosecution has examined in all 13 witnesses as under:-

PW No.	Name of witness	Significance/ role
PW-1	Vasantsing Prahadsing Patil	Complainant. Father of deceased.
PW-2	Mangalsing Mango Patil	Panch to inquest panchanama exhibit 23
PW-3	Raju Vasant Sapkale	Panch to spot panchanama
PW-4	Vasant Kisan Gurav	Panch to spot panchanama (exhibit 26).
PW-5	Lahubai Vasantsing Patil	Mother of the deceased.
PW-6	Ghansham Fulsing Patil	Relative of deceased
PW-7	Gulabsing Uttamsing Patil	Neighbour of accused
PW-8	Dr. Parag Vasantrao Chaudhari	Private medical practitioner
PW-9	Gokulsing Uttamsing Patil	Neighbour of accused
PW-10	Isaq Fakira Shah	Investigating Officer.
PW-11	Chintaman Vitthal Patil	Muddemal seized panch
PW-12	Yashwant Shankar Baltishe	Another Investigating Officer
PW-13	Dr. Prasad Prabhakar Rao Surve	Medical Officer in rural Hospital, Jamner

6. After recording evidence and hearing the accused persons and prosecution side, the learned Trial Court was pleased to pass the impugned judgment.

7. The learned advocate appearing for the appellants submitted that appellant No.1 is husband and appellant No.2 was father-in-law of the deceased Varsha. Appellant No.2 expired and thus, this appeal is already abated against him. The learned advocate submitted that ingredients of Sections 498-A and 306 IPC are not independently established, and conviction is based on conjectures. The learned counsel for the appellant submitted that the conviction under Sections 498-A and 306 IPC is wholly unsustainable as the prosecution has failed to prove the foundational fact of suicide. The evidence on record discloses material omissions, improvements and contradictions in the testimony of interested witnesses, while independent witnesses have not supported the prosecution. Further, the medical and forensic evidence is vitiated due to serious lapses in sealing and handling of viscera, rendering the Chemical Analyzer's report unreliable. In absence of proof of instigation, aid or intentional conduct, the conviction deserves to be set aside. Therefore, the learned Trial Court committed grave error by convicting the appellants as it has not properly appreciated evidence brought on record. The prosecution has failed to prove guilt of the appellants beyond reasonable doubts. As such, the appeal needs to be

allowed and the appellants be acquitted.

8. In support of his above submissions, the learned advocate for the appellants has relied upon following judgments:-

(a) Dilip Ramaji Kakde vs. State of Maharashtra, 2000 (1) Mh.L.J. 549.

(b) Shivaji Janaba Patil and others vs. State of Maharashtra, 2004 (1) Mh.L.J. 411.

(c) Baboo Ramchandra Shinde and others vs. State of Maharashtra, 2005 ALL MR (Cri) 1707.

(d) Naresh Kumar vs. State of Haryana, Criminal Appeal No.1722/2010 decided by Hon'ble Supreme Court on 22.02.2024.

9. *Per contra*, the learned APP as well as the learned advocate for the complainant/ PW-1 strongly opposed the submissions of learned advocate for the appellants. According to them, the evidence of the parents of the deceased consistently demonstrates a pattern of harassment and monetary demands,

which ultimately provoked the deceased to commit suicide. It was contended that minor discrepancies or procedural lapses in investigation should not overshadow the substantive evidence establishing cruelty and abetment, and that the Trial Court has rightly appreciated the material on record. The statements of witnesses proved the guilt of the appellants beyond all reasonable doubts and, therefore, their evidence cannot be discarded. The learned Trial Court has rightly considered evidence on record and rightly convicted the appellants. They, therefore, prayed for dismissal of the appeal.

10. After hearing the submissions of learned advocates and with their assistance, after going through evidence on record carefully, it is evident that the prosecution, in order to prove its case, has examined PW-1 complainant (Vasantsing Patil) at exhibit 20. PW-1 deposed that the deceased was his elder daughter and was married to accused No.1 Ranjitsingh on 01.04.2002. He stated about general harassment at the hands of the accused on account of dark complexion of the deceased Varsha. PW-1 deposed that on 22.05.2003, his cousin brother Ghansham (PW-6) received telephonic call from accused No.2

Bhagatsing that the condition of Varsha was serious and they were going to admit her in the hospital of PW-8 Dr. Parag Chaudhari at Jalgaon. Therefore, PW-1 along with his wife and brother-in-law and others went to Jalgaon and saw that Varsha was admitted in ICU of PW-8. PW-1 deposed that when they met Varsha, she told that she was ill-treated by the accused persons on the ground of demand of money of Rs.25,000/- to purchase the motorcycle. At that time, she was carrying seven months pregnancy. She also told PW-1 that she was warned by the accused persons not to come to their home unless and until the demand of money is fulfilled. She was discharged from hospital after about seven days. PW-1 further deposed that on 21.01.2005, his brother Ghansham (PW-6) informed him that he received telephonic message from accused No.2 Bhagatsing that Varsha was serious, she was vomiting and therefore, the accused persons were willing to admit Varsha in the hospital at Jalgaon. PW-1 along with his wife and brother Keshav, sister-in-law and brother-in-law Gajendrasing went to Jalgaon to see Varsha. When they were on way, they got message that Varsha had expired in the hospital. Therefore, they went back to Jamner in the hospital and saw the dead body of Varsha. PW-1 further deposed that he

took dead body for funeral. After funeral, 21.01.2005 itself, PW-1 lodged the FIR.

11. There are various omissions in the evidence of PW-1 complainant. In cross-examination, he deposed that while lodging the complaint, he stated to the police that whenever Varsha came to his house after marriage, she used to tell them about ill treatment given to her by the accused persons. However, he cannot assign any reason as to why this fact does not find place in his complaint. He also admitted in cross-examination that it was not stated to the police that when Varsha was admitted in the hospital of Dr.Parag Chaudhari, she told him that she was warned by the accused persons not to come back to their place unless and until the demand of Rs.25,000/- was fulfilled. He also admitted in cross-examination that it was not stated to the police that he smelt some poisonous substance from the mouth of the dead body of Varsha in the hospital. Therefore, the learned advocate for the appellants is right in submitting that there are improvements as regards version of the PW-1 in his examination-in-chief because he admitted several things in his cross-examination. PW-1 further admitted in his cross-examination that

the deceased Varsha was having very low hemoglobin when she was pregnant and was admitted in the hospital of Dr. Parag Chaudhari (PW-8). By way of suggestion, PW-1 has denied that during pregnancy of Varsha, she had complained of very low hemoglobin and high blood pressure and some ailments relating to pregnancy and, therefore, she always used to be ill during that period. PW-1 further denied that due to aggravation of ailments during pregnancy, Varsha died naturally.

12. Similar evidence is also coming from PW-5 (Lahubai Vasantsing Patil), who is mother of the deceased. The prosecution also examined PW-7 (Gulabsing Patil) and PW-9 (Gokulsing Patil), who are neighbours of the accused residing near the house of the accused persons. According to these neighbour witnesses, the deceased Varsha was never ill treated and she died due to illness.

13. In above circumstances, testimony of PW-8 Dr. Parag Chaudhari, who is private medical practitioner, is more important. PW-8 Dr. Chaudhari has admitted that when the patient Varsha was admitted in his hospital, she was in conscious state of mind and was able to speak. She never complained of

anything about the consumption of any other poison. PW-8 stated that so far as stomach wash is concerned, it was not smelling pungent or irritating. After stomach wash, PW-8 did not find that there was case of any consumption of chemical poison. This doctor PW-8 further stated that during pregnancy, hormones in the body get changed and, therefore, the patient feels vomiting, feverish, headache, etc.. PW-8 also stated that in some of pregnant women, depression develops.

14. Another medical officer, who has been examined by the prosecution at exhibit 61 is PW-13 (Dr. Prasad Surve). According to him, on 21.01.2005, when he was working as Medical Officer in Rural Hospital, Jamner, in the morning at about 08:30 am, one rickshaw jeep came to the hospital wherein, one patient was there. Relatives of the said patient told PW-13 that the patient had consumed some poisonous substance. Therefore, PW-13 went to examine the patient there only and found that she was dead. PW-13, therefore, informed this fact to the Jamner Police Station. Thereafter, PW-13 performed postmortem. During the postmortem, he found that fingers were semi flexed and nails having bluish black discolouration.

According to him, the symptoms thereof were organo phosphorus poisonous. Viscera was preserved in two bottles, bottle No.1 was stomach and its contents with piece of small intestine. Bottle No.2 was contents of pieces of lungs, kidney, liver and spleen. According to PW-13, the death was due to cardio respiratory failure due to ingestion of unknown poisonous substance. The postmortem report is at exhibit 63. After going through the Chemical Analyzer's report, the final cause of death according to PW-13 was due to Endosulphan poisoning.

15. PW-13 (Dr. Prasad Surve) was cross-examined at length by the defence. According to him, whenever the level of haemoglobin is less in the body, generally it is called anemia. He stated that if the diagnosis is not properly done and the treatment is not properly given, then, anemia may affect the life of the patient. According to him, even due to iron deficiency or over iron dose and vitamin B-12 deficiency the health may affect. Due to anemia, there appears giddiness, body weakness in the patient. PW-13 stated in cross-examination that it is only the haemoglobin which supplies oxygen to the parts of the body including brain and heart, otherwise in anemic situation, the

shape of RBCs get changed. In spleen disease, the RBCs never get formed or they are inadequately formed. This medical officer PW-13 also admitted in his cross-examination that smell of phosphorous is smell of garlic and both smells are pungent and prominent. He stated that in endosulphan, there is no phosphorous and it contains chlorine. In his cross-examination, PW-13 admitted that one sweeper Laxman assisted him in conducting postmortem on the dead body of Varsha. After taking out the organs from the dead body, doctors observe it and then take notes thereof. The sweepers used to show the organs to the doctors. According to PW-13, on 24.01.2005, the box of viscera was given to police by Dr. G.B. Patil.

16. PW-13 Dr. Prasad Surve was further cross-examined on the aspect of sealing viscera bottles. He has categorically stated that he is unaware whether, the boxes of viscera have reached to the laboratory at Pune. When PW-13 opened the box on second occasion, it was already sealed by forensic laboratory. According to PW-13, till that date, he has not informed the police that he found the labels as regards the name of deceased and the PM number found inside the box after it was opened by him. He

has not informed even the forensic laboratory that the labels along with PM number and the name of deceased was lying inside the box and the same was pasted by him subsequently. PW-13 was further reexamined by the prosecution after permission from the Trial court and he stated that in PM room, one separate part is there to keep the bottles of viscera in sealed box. It is kept under the direct supervision of the Chief Medical Officer and the keys are also lying with the Chief Medical Officer being the custodian. When it is to be sent to the Chemical Analyzer, the concerned doctor used to handover the box of viscera to the Police.

17. In view of the above evidence, the learned advocate for the appellants has strongly attacked the prosecution case on account of improper sealing of muddemal property. In this regard, attention of this Court is invited to the deposition of PW-10 (Investigating Officer Isaq Shah). PW-10 stated that he was given duty to carry the samples to the C.A. and he carried one sealed cardboard box. One letter was also given to him along with the said box. The said letter is at exhibit 41 dated 29.01.2005 issued by the Regional Forensic Laboratory, Pune, to

the Medical Officer, Rural Hospital, Jamner. As per the contents of the said letter, viscera bottles were not properly sealed. There were no labels on the said bottles. There was no name of the deceased on viscera bottles and no PM number. It was also not along with the covering letter of the Medical Officer and further there is discrepancy in the names of the deceased and the Medical Officer. Therefore, the Regional Forensic Laboratory, Pune returned the muddemal property.

18. In this regard, it is necessary to look into evidence of PW-11 (Chintaman Patil), who carried the muddemal property to the Regional Forensic Laboratory, Pune. PW-11 stated that on 09.02.2005 he carried the muddemal to C.A. office at Pune through bus. He deposited the muddemal in the office of CA on next date. PW-11 was examined to prove the contents of the letter dated 26.01.2005 at exhibit 43 issued by the Jamner Police Station to the Regional Forensic Laboratory, Pune.

19. With this quality of evidence, the learned advocate for the appellant is right in submitting that the prosecution has utterly failed to prove the most essential aspect that the deceased Varsha committed suicide by consuming poison. There is no

proof of suicide and general allegations of harassment have been levelled against the accused persons.

20. As far as the allegations of cruelty and harassment are concerned, the entire prosecution case rests on contradictory and improved evidence of interested witnesses, namely, PW-1 Vasant Patil (father of deceased) and PW-5 Lahubai (mother of deceased). There are material omissions in the FIR and the police statements. Such omissions, being material, assume the character of contradictions and seriously affect the credibility of PW-1. The evidence of PW-1 and PW-5 is hearsay evidence and such statements do not qualify as dying declarations. Even if the said allegations of demand of Rs.25,000/- for purchase of motorcycle is concerned, same cannot be regarded as dowry as per the definition of Section 2 of the Dowry Prohibition Act. Mere taunting as regards dark complexion and sending the deceased Varsha for agricultural work, would not amount to cruelty under Section 498-A of the IPC. PW-1 and PW-5 have levelled general and omnibus allegations against all the accused persons including parents and other relatives of the husband of the deceased.

21. In view of such type of evidence on record, the seizing and sealing of muddemal property carries more importance in order to remove doubts. The letter at exhibit 41 issued by the Regional Forensic Laboratory, Pune, shows casual manner in which the investigation was carried out. At the cost of repetition, it is necessary to mention here that the Forensic Laboratory has refused to accept the muddemal property for the reasons that viscera bottles were not properly sealed, there were no label of name of the deceased and PM number was also not there. With such quality of evidence, it is very difficult to ascertain that the deceased has committed suicide by consuming poison. In such situation, evidence brought by the defence as regards the deceased was having various health issues, due to which, she was anemic, gets corroboration.

22. It is well settled that in criminal jurisprudence, the burden lies squarely upon the prosecution to prove its case beyond reasonable doubt and any infirmity in investigation, particularly in cases resting on circumstantial and medical evidence, will benefit the accused. For an offence under Section 306 IPC, there must be clear proof of suicide and direct or

proximate act of instigation or aid by the accused. However, a bare perusal of evidence on record, there is no such proof of suicide, so also, there is no evidence of instigation by the accused. Mere allegations of harassment, not supported by cogent evidence, do not constitute cruelty under Section 498-A IPC. Further, when the chain of possession of seized articles is broken, then forensic reports lose evidentiary value. In criminal trials, suspicion cannot substitute proof, and benefit of doubt must necessarily go to the accused.

23. The legal position laid down in the decisions relied upon by the learned counsel for the appellant squarely applies to the facts of the present case. In *Dilip Ramaji Kakde v. State of Maharashtra (supra)* and *Shivaji Janaba Patil v. State of Maharashtra (supra)*, it has been held that vague, general and omnibus allegations of cruelty, particularly when improvements and material omissions are noticed, cannot form the basis of conviction under Sections 498-A and 306 of IPC. In *Baboo Ramchandra Shinde v. State of Maharashtra (supra)*, this Court has emphasized that unless cruelty is shown to be of such nature as is likely to compel the woman to commit suicide and is

proximate to the death, conviction is impermissible. Recently, the Supreme Court in *Naresh Kumar v. State of Haryana* (supra) has reiterated that proof of suicide and a direct nexus between the alleged acts of the accused and the death are *sine qua non* for an offence under Section 306 IPC, and mere allegations of harassment, howsoever serious, cannot substitute legal proof. Applying these principles, the conviction recorded by the Trial Court cannot be sustained.

24. In view of the foregoing discussion, I am of the view that the prosecution has failed to establish the ingredients of the offence beyond reasonable doubts. Consequently, **this Criminal Appeal is allowed and the impugned judgment and order is quashed and set aside.** The appellants/ accused are acquitted for the said offence. Appellant No.2 expired and thus, this appeal is already abated against him. As appellant No.1 is on bail, he need not surrender. The bail bond stands cancelled. Surety, if any, stands discharged. Fine amount, if deposited, be refunded. The record and proceedings be sent back to the concerned Court.