2026:BHC-AUG:54274

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 51 OF 2026

Usman Shaha Ibrahim Shaha,
Age 48 yrs., Occ. Farmer,
R/o Balaji Nagar, Soygaon,
Tq. Soygaon, Dist. Aurangabad.

... Appellant

... Versus ...

1 Amit Shaha Kadir Shaha,
Age 39 yrs., Occ. Labour,

2 Naim Shaha Kadir Shaha,
Age 49 yrs., Occ. Labour,

3 Bushra Aka Fehmida Naim Shaha,
Age 38 yrs., Occ. Labour,

4 Taslimbi Kalim Shaha,
Age 41 yrs., Occ. Labour,

Respondent Nos.1 to 4 are r/o Fardapur,
Tq. Soygaon, Dist. Chhatrapati Sambhajinagar.

5 The State of Maharashtra
Through Fardapur Police Station,
Tq. & Dist. Aurangabad.

... Respondents

...

Mr. A.A. Fulfagar, Advocate for appellant

Mr. M.K. Bhosale, Advocate for respondent Nos.1 to 4

Mr. G.O. Wattamwar, APP for respondent No.5

...

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 02nd NOVEMBER, 2026
PRONOUNCED ON : 04th NOVEMBER, 2026

JUDGMENT :

. Original complainant challenges judgment and order of acquittal dated 03.12.2025 passed by learned Additional Sessions Judge, Aurangabad in Sessions Case No.344/2025 acquitting respondent Nos.1 to 4 from charges under Section 108 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

PROSECUTION CASE IN BRIEF

2 Respondents / accused Nos.1 to 4 faced trial vide above sessions case and the premises that deceased was married to accused Amit in 2013-2014. On 08.06.2026 deceased daughter of PW 1 fell sick and was initially taken to local hospital at Sillod and was advised admission in Intensive Care Unit, while accused No.1 husband and accused No.3 refused on economic grounds, as a result of which her condition deteriorated. On 19.06.2025 while she was undergoing treatment in GHATI, she succumbed. On report of PW 1-father, Exh.17 crime was registered and duly investigated by PW 6, who charge sheeted all four accused, who were made to face trial, but the

trial ended up in acquittal. Hence, instant appeal by informant.

SUBMISSIONS

On behalf of the appellant :

3 Learned counsel for the appellant pointed out that after marriage accused husband got addicted to liquor and used to harass deceased Sumayya. Because of the maltreatment Sumayya committed suicide. On the report of appellant crime was registered. According to learned counsel for appellant, father, brother and mother have consistently deposed about harassment. That in spite of deceased Sumayya falling sick, she was deliberately not treated, as a result of which her condition deteriorated and finally she succumbed. He would submit that, in fact, trial Court did not examine all prosecution witnesses. Had the trial Court examined independent witnesses, the truth would have emerged. But, as there is failure by trial Court to do so and as there is acquittal without proper appreciation of evidence, he prays for allowing the appeal by setting aside the order of trial Court.

On behalf of respondent Nos.1 to 4 :

4 Learned Counsel for respondent Nos.1 to 4 would support the

judgment and order of acquittal, it to be on complete appreciation of evidence and prosecution having failed to bring the charges by proving its case beyond reasonable doubt.

EVIDENCE BEFORE THE TRIAL COURT

5 Re-appreciated the evidence. Here, case of prosecution is based on evidence of six witnesses. Husband and in-laws of deceased Sumayya seem to have faced charge for offence under Section 108 read with Section 3(5) of the Indian Penal Code on accusations that they abetted the suicide of Sumayya.

6 **PW-1** father, who has set law into motion in his evidence at Exh.16 stated that marriage of his daughter Sumayya was solemnized with accused No.1 and they had two daughters and a son. According to him, accused was addicted to liquor. He also used to harass her. Whenever his daughter came she reported about it. Then according to him on 18.06.2025 phone call was received from other daughter Rubina informing that health of Sumayya is deteriorated and though she was taken to the hospital and advised to be admitted in ICU, accused had no money and they did not admit her. He claims that he also learnt from her daughter Rubina that accused instead took her to a quack. On 19.06.2025 his daughter talked to his wife

and complained of breathlessness. The next morning she again called and informed that her health was deteriorating and, therefore, his wife, daughter, brother brought her to GHATI, but there she expired on 20.06.2025. According to him, doctors told that Sumayya died due to consumption of poison.

6.1 While under cross-examination, he admitted that since marriage till death of Sumayya, there was no report or complaint.

7 **PW2**, brother of deceased and son of PW1, who deposed at Exh.22, also stated that, accused was addicted to liquor and he used to harass his sister, which she told him during her visit. On 18.06.2025 his sister Rubina informed about Sumayya's ill health, and though she was taken to hospital, accused did not admit her for want of amount. Rather he also learnt from his sister that they instead administer her medicine given by quack. On 19.06.2025 his sister complained of breathlessness. Next day morning, she was taken to GHATI and on 20.06.2025 she died. Even he told that doctor told that death was due to consumption of poison.

7.1 Even while facing cross-examination, he admitted that there was no previous complaint anywhere.

8 Likewise, **PW3** wife reiterated about Rubina informing on phone

about ill health of Sumayya, being taken to hospital, but not admitted for want of economic condition and rather accused took her to a quack to administer her medicine for hepatitis. That, her daughter died on 20.06.2025 while being admitted in GHATI.

8.1 Even she admitted that there was no complaint anywhere and omission is brought in paragraph No.10 of her cross-examination that doctors or police told that there was administration of poison.

9 **PW4** sister also claims that accused was addicted to liquor and he used to harass her sister. On 18.06.2025 in the afternoon she received phone call from her deceased sister complaining of ill health and being taken to Siddheshwar Hospital, Sillod and she went there and there doctor told that she needs to be admitted in ICU in low budget, but as accused had no money they did not admit her in ICU and rather took her to a Maulana, who administered her medicine for hepatitis and then after deterioration of the condition, she being admitted in GHATI, where she died on 20.06.2025.

9.1 Apart from admitting in cross-examination that there was no complaint in paragraph No.12, she admitted not stating to police in her statement that her deceased sister had called her and told that she was taken to Siddheshwar Hospital. She admitted that medical treatment was given to

her sister at Siddheshwar Hospital.

10 **PW5** is another brother and in his evidence he deposed that accused was addicted to liquor and he harassed her sister. According to him on 18.06.2025 his sister made phone call to his father that she was not feeling well and being taken to Sillod and so his sister Rubina went to see her and that her condition was critical. According to him, 15 days prior to the incident, Sumayya had demanded Rs.20,000/- from him and when he inquired about reason of demand, she told him that her sister-in-law Taslimbi is demanding money and there was harassment for not paying, and on 20.06.2025 his sister expired. Even he in his cross-examination there was no police complaint.

11 **PW6** is the Investigating Officer, who narrated all steps taken by him during investigation.

ANALYSIS AND CONCLUSION

12 The above discussed evidence shows that marriage of deceased Sumayya with accused is of 2011. Out of said cohabitation, it seems that deceased had two daughters and a son. All witnesses are merely stating that accused was addicted to liquor and he used to harass Sumayya. These are purely general and omnibus allegations. In what form there was harassment

and by which of the accused, is not stated by any of the accused. Only PW5 brother seems to have deposed that his deceased sister told him that her sister-in-law had demanded Rs.20,000/-, but again his deposition is general that for not paying there was harassment. Therefore, here, there is weak or no evidence on the point of physical or mental harassment. All are admitting in cross-examination that there was no previous complaint. Death of Sumayya is of 20.06.2025. There is five years cohabitation. Only omnibus allegations of addiction of liquor and harassment are attributed, that too, to all the accused.

13 Though there is charge of Section 306 of the Indian Penal Code, above discussed evidence clearly shows that deceased Sumayya was suffering from hepatitis. Though witnesses speak that deceased was not admitted in the hospital in ICU for want of money, Rubina has admitted that accused persons admitted her sister in Siddheshwar Hospital for treatment. Witnesses merely speak that they learnt from doctor that Sumayya died due to consumption of poison, but there is no evidence whatsoever in that regard. It has also come in the evidence of above family members that deceased was taken to a quack for treatment. Therefore, possibility of she taking such medicine cannot be ruled out. Postmortem Report shows that death was due to poisoning, but there is no supportive scientific evidence.

14 Here, in support of charge of abetment of suicide, there is no iota of evidence. Rather Sumayya seems to have died while admitted in GHATI, but PW6 - Investigating Officer has admitted that he did not collect case papers of Siddheshwar Hospital nor collected any other treatment papers. Consequently, there is no iota of evidence that accused abetted the suicide and hence, charge fails.

15 Perused the judgment, there is no perversity or illegality in the findings and conclusion recorded by the trial Court. The view taken by the trial Court with such quality of evidence and record, is the possible view that could emerge. Hence, appeal fails.

ORDER

The appeal stands dismissed

(ABHAY S. WAGHWASE, J.)

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