2026:BHC-AUG:51660

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 177 OF 2016

Vilas S/o. Dashrath Ingale
Age: 28 years, Occu.: Service,
R/o. Gaikwad Galli, Dharur,
Taluka Dharur, District Beed. ….Appellant

Versus

The State of Maharashtra …..Respondent

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Mr. Nilesh S.Ghanekar, Advocate for Appellant.
Mr.V.S.Badakh, APP for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 22-10-2026
Pronounced on : 26-10-2026

JUDGMENT :

1. Instant appeal is directed against Judgment and order dated 19-03-2016 rendered by learned Additional Sessions Judge, Majalgaon in Sessions Case No.64 of 2012 convicting appellant for offence under Sections 498-A, 306 and 304-B of the Indian Penal Code (IPC).

BRIEF FACTS OF THE PROSECUTION CASE

2. Prosecution was launched by father of deceased Minakshi stating that husband and in-laws demanded Rs.10,000/-. That,

accused No.1 husband disliked Minakshi and he threatened to perform second marriage. That, subsequently demand of Rs.50,000/- was also raised for purchase of a car. That, deceased reported regarding said demand when she came at parents' home for Diwali festival. That, amount of Rs.50,000/- was paid to accused No.1, however, still ill treatment continued and finally, getting fed up of ill treatment, deceased committed suicide by hanging herself. Hence, on report of informant father of deceased at Exhibit 38, Crime bearing No.16 of 2012 was registered for offence under Sections 498-A, 306, 304-B read with Section 34 of the IPC and under Sections 3 and 4 of the Dowry Prohibition Act, Investigating Officer investigated the same and accused persons were chargesheeted and tried by learned Additional Sessions Judge, Majalgaon, who on appreciation of evidence, was pleased to acquit accused Nos.2 to 5 but accused No.1 husband came to be convicted for offence under Sections 498-A, 306, 304-B of the IPC and so instant appeal is at his instance.

BRIEF ACCOUNT OF EVIDENCE BEFORE TRIAL COURT

3. Prosecution has adduced evidence of in all five witnesses in the trial Court. The sum and substance of their evidence is as under :

PW1 Uttam Ramappa Girgaonkar, father of deceased gave date of marriage of his daughter as 29-05-2011. He deposed that, he gave

dowry of Rs.2,50,000/- as well as 2 tola gold. That, after 8 days of marriage, when his daughter returned maternal home from house of accused, she passed on a chit handed over by her husband regarding demand of Rs.10,000/. That, within 4 days, he sent his daughter back alongwith his son Rahul and paid Rs.10,000/- to Rahul which was to be paid to accused No.1. Then, he alleges that his daughter was not allowed to talk on phone and her husband said that he disliked her and would also said that he would perform second marriage. That, while telephonic conversation with his daughter, she was found to be crying. That, during Diwali festival, when she came at maternal house, she narrated about ill treatment at the hands of accused on account of demand of Rs.50,000/- for purchase of a car and there was ill treatment to her comprising of beating and not providing food regularly. That, father-in-law came to pick her up and when she again went back to house of accused after Diwali, on phone she conveyed ill treatment at the hands of accused.

On 09-02-2012, his son Rahul went to bring her on account of a fair and at that time, his daughter told about demand of signature on divorce papers and beating and ill treatment to her. He deposed that, his daughter told that, if she did not bring Rs.50,000/- then there will be more harassment by accused No.1.

On 23-02-2012, accused No.1 told on phone to bring

Rs.50,000/- and said amount was arranged by borrowing it from one Gulab Pandurang Chavan and said amount was paid to accused No.1. That, after returning back to his village, he also arranged a new mobile phone for his daughter but accused did not allow her to use it and accused No.1 removed SIM card from her mobile. On 28-02-2012, a phone call was received from accused No.1 that Minakshi had suffered heart attack and so they went to Dharur and they found her dead body in hospital and on the same day, he lodged report Exhibit 38.

4. **PW2** Rahul, brother of deceased at Exhibit 43 also deposed about Rs.2,50,000/- and 2 tola gold given to accused No.1 as dowry in the marriage of Minakshi and that, after 8 day of cohabitation, when his sister was brought to their house, at that time, accused No.1 had given one chit with his sister to be given to his father and demand Rs.10,000/- as remaining amount of dowry was made. He claims to have given Rs.10,000/- to accused No.1 after 8 days. That, when his sister came to their house for Diwali festival, she narrated that accused No.1 was ill treating her on account of demand of Rs.50,000/- for purchase of a car and she also narrated that accused No.1 was always ill treating her, beating her and not providing meal. That, understanding was given to father-in-law of deceased when he

came to pick her up. That, thereafter his sister told on phone about ill treatment at the hands of accused persons and that, accused No.1 wanted to perform second marriage and that he disliked her. That, one mobile phone was arranged for his sister but accused persons were not allowing her to speak with parents on said phone. That, on 09-02-2012 he brought his sister to their home and on 23-02-2012 accused No.1 made phone call to his father to immediately send Minakshi with Rs.50,000/- and so his father took hand loan and paid it to accused No.1. That, on 28-02-2012 phone call was received that Minakshi was serious as a result of heart attack and they accordingly went there and came across dead body of Minakshi and on the same day, his father lodged complaint.

5. **PW3** Gulab Pandurang Chavan at Exhibit 44 deposed that, after marriage of Minakshi, her father told him that accused persons were ill treating her. That, on 23-02-2012 PW1 informant demanded Rs.50,000/- for paying amount to Minakshi and on his request, he paid him Rs.50,000/-.

6. **PW4** Indubai, mother of deceased deposed at Exhibit 51 about dowry amount of Rs.2,50,000/- given with 2 tola gold to accused. That, after 8 days, her son went to bring Minakshi to their house and

at that time, accused No.1 gave one chit to be handed over to her husband making demand of Rs.10,000/- in respect of clothes in his marriage. Said chit was written by accused No.1, which she identified at Exhibit 37. She deposed that, after 8 days, Minakshi was left back to accused and at that time, her son paid Rs.10,000/- to accused No.1. According to her, her daughter was telling on phone about ill treatment at the hands of accused persons and that, husband disliked her, abused her and beat her and that, husband would used to say that he would perform second marriage. That, her daughter came for Diwali festival in 2011 and at that time, she narrated ill treatment at the hands of accused persons. She also told that, her husband is making demand of Rs.50,000/- for purchasing a car and on that count, there was ill treatment and not providing food regularly. That, her daughter went back with her father-in-law but again she narrated on phone about ill treatment at the hands of accused persons. On 23-02-2012 accused No.1 made a phone call to take Minakshi and also directed husband of this witness to bring Rs.50,000/- which her husband borrowed from Gulab Pandurang Chavan and went to house of accused alognwith Minakshi and gave it to accused No.1. That, during said period, her daughter was pregnant. That, on 28-02-2012, accused No.1 informed that, Minakshi suffered heart attack and so they all went to Dharur and came across her dead body.

PW5 Angad Dnyanoba Sudke, is the Investigating Officer, who narrated all the steps taken by him during investigation.

7. Accused also adduced evidence of himself as **DW1** and **DW2** Ajay Arun Borgaonkar at Exhibit 55 and 56 respectively.

SUBMISSIONS

On behalf of Appellant :

8. Learned counsel for appellant would submit that, there is false implication. According to him, prosecution failed to prove charges beyond reasonable doubt. He would submit that, there are simpliciter allegations of ill treatment without specifying or giving details of its form or when ill treatment was inflicted and by which of the accused. He further submitted that, testimonies of witnesses, who are only interested and family members, are contradictory. According to him, there are general and vague allegations of ill treatment. That, information regarding most of the allegations is allegedly received on telephone from deceased, but Investigating Officer has not collected CDR and SDR. According to him, from the prosecution evidence, it is emerging that deceased Minakshi was talking on phone, but father and brother of deceased speak of arranging a new phone for her at a subsequent point of time and therefore, it is improbable for them to

hear about allegations and ill treatment from their daughter when she had no phone of her own. He reiterated that, even otherwise, there is no supportive evidence in the form of CDR or SDR.

9. According to him, in support of charge of Sections 306 and 304-B of the IPC, there is no evidence of any positive or active role played by any of the accused in instigating or abetment to commit suicide. Moreover, according to him, in support of charge of Section 304-B of the IPC, prosecution has to demonstrate that soon before the death, there was maltreatment for dowry demand, but evidence to that extent is patently missing. Thus, according to him, both charges infact failed.

He pointed out that, surprisingly on the same set of evidence, learned trial Court has already acquitted accused Nos.2 to 5, but unfortunately, applied the same set of evidence to convict only accused No.1 husband. This approach according to him is against the spirit of settled law. He would submit that, there is no live link on the point of harassment and alleged suicide.

Lastly, he submitted that, merely out of annoyance of loosing daughter, there is false implication, but learned trial Court failed to consider and appreciate the same, therefore, he prays to interfere by allowing the appeal.

On behalf of Respondent :

10. Learned APP on behalf of State submitted that prosecution has proved all the charges beyond reasonable doubt. That, shortly after the marriage, there was demand. That, prosecution witnesses are consistently speaking about it. That, their evidence has remained intact. That, nothing adverse is brought in their cross-examination. That, as unnatural death has taken place within seven years of marriage and there being ample proof of dowry demand, learned trial Court committed no error in convicting accused No.1 husband against whom there is overwhelming evidence about both ill treatment as well demand. For above reasons, he prays to dismiss the appeal.

ANALYSIS

11. Evidence of PW1 father, PW2 brother and PW4 mother of deceased is already reproduced in aforesaid paragraphs. Allegations are that, after 8 days of marriage, when deceased first visited parents' house, at that time, accused No.1 husband sent a chit Exhibit 37 with Minakshi and put up demand of Rs.10,000/-. Father, brother and mother of deceased, all in their evidence, have stated to that extent. However, on going through the said chit in question, firstly, it is noticed that, it is carrying details about cost of each of the items noted therein. Infact, it is a sort of bill and there is nothing to

indicate that it was authored by accused husband. Handwriting analysis has not been done in support of case of prosecution that it was written by accused No.1 and send to raise the demand. Moreover, as pointed out, initially xerox copy of chit has been tendered and directly it is got proved in the witness box. Though witnesses claim that it was in the handwriting of accused husband, there is no contemporary evidence that it was authored by accused husband.

12. Second feature of the case, which on re-appreciation of evidence emerging is that witnesses speak about demand of Rs.10,000/-. PW1 father of deceased also speaks about meeting the said demand. If demand is met then as rightly pointed by learned counsel for appellant, there was no question of subjecting deceased to ill treatment. All above mentioned three prosecution witnesses are found to be deposing that deceased used to inform them on telephone about ill treatment, but again as pointed out, there is no CDR and SDR in support of such allegations. Further again as rightly pointed out, father of deceased himself speaks of arranging a new mobile phone for his daughter after he returned back to his village upon handing over Rs.50,000/- to accused No.1 for purchasing car, which he claims to have borrowed from one Gulab. In examination-in-chief,

he speaks to that extent in paragraph 3 that after returning back to village, he gave one new mobile phone to Minakshi. This seems to be after deceased had allegedly conceived 3 months pregnancy. Therefore, question does arise on whose mobile phone deceased persistently complained about demand and ill treatment by accused.

13. There seems to be allegation that demand of Rs.50,000/- was raised for purchase of car, but none of the witnesses is in position to state which car at Rs.50,000/- was planned to be purchased by accused husband. Prosecution witness i.e. PW1 father of deceased himself in paragraph 11 of his cross-examination admitted that, there was no discussion between him and his deceased daughter about purchasing a car and he admitted in same para that, he had not stated in the complaint or in his supplementary statement that accused made demand of divorce from his daughter and further that, after accused No.1 demanded divorce then he met to give understanding to him. It is also emerging from evidence of informant, his son and mother of deceased that deceased Minakshi was in their company at the house of father from 09-02-2012 to 23-02-2012 i.e. till accused No.1 allegedly made a phone call to demand Rs.50,000/-. However, as stated above, again there is no evidence about any such telephonic talk in the form of CDR or SDR.

PW1 informant in paragraph 9 admitted that, in the month of February 2012, his daughter has not come to their house, but contrary to it is what PW2 brother of deceased deposes that on 09-02-2012 he went to brought his sister home. Therefore, witnesses are contradicting each other. As stated above, stay of deceased in the house of informant is from 09-02-2012 to 23-02-2012. Deceased allegedly committed suicide by hanging on 28-02-2012 i.e. within 5 days after she went back to stay with accused husband. What exactly happened during those 5 days has not come on record. Even there are no allegations that during said period or in proximity to suicide, there was any demand followed by cruelty or maltreatment. No telephonic conversations also seem to have taken place between deceased and informant during said 5 days period.

14. Here, thus firstly allegations by prosecution witnesses are about demand and ill treatment, but no specific instances are quoted either in what form or when such instances taken place. As stated above, deceased had allegedly informed about ill treatment on phone, but there is no CDR and SDR and it is also doubtful whether deceased had phone at such time because father had arranged a new mobile phone at subsequent point of time. Though, a chit is produced, the same does not seem to be have been seized by way of distinct

panchanama and moreover, it is mere bill and not a demand. Therefore, evidence of prosecution is not free from doubt.

15. Another pertinent feature of this case is that, on similar set of evidence, learned trial Court seems to have acquitted accused Nos.2 to 5, however, same evidence is applied against accused No.1 husband for convicting him and the above discussion shows that even against him, the evidence is weak in nature and not full-proof.

16. For attracting charge of cruelty under Section 498-A of IPC, there has to be consistent and continuous cruelty. For attracting Section 306 of the IPC, there has to be positive evidence about active participation by husband in instigating suicide. Similarly, for attracting Section 304-B of the IPC, it has to be demonstrated by prosecution that soon before the death, there was dowry demand or cruelty in that backdrop. But unfortunately, there is no evidence about any immediate ill treatment prior to alleged suicidal hanging.

17. Again, here accused No.1 has examined himself at Exhibit 55 and he has also adduced evidence of DW2 Ajay at Exh.56. On the alleged day and even a night prior to it, there was said to be quarrel between husband and wife and Minakshi was not keen in attending school of DW2 and was rather interested in attending function in the

academy of accused No.1. There was quarrel in that regard. Therefore, defence has probabilized annoyance on the part of deceased immediately prior to the suicide.

SUMMATION

18. To sum up, here, prosecution has failed to prove beyond reasonable doubt that deceased was subjected to cruelty for any demand and that accused No.1 husband instigated or abetted the suicide for not meeting dowry demand. Learned trial Court has failed to consider and appreciate these essential ingredients for attracting the charges. As stated above, on the same set of evidence, accused Nos.2 to 5 are acquitted, but accused No.1 is alone chosen to be convicted. Hence, interference in the impugned Judgment and order is called for. Accordingly, following order is passed :

ORDER

I. The appeal is allowed.

II. The conviction awarded to the appellant Vilas S/o. Dashrath Ingale by learned Additional Sessions Judge, Majalgaon, District Beed, in Sessions Case No.64 of 2012 under Sections 498-A, 306, 304-B of the Indian Penal Code, on 19-03-2016 stands quashed and set aside.

III. The appellant Vilas S/o. Dashrath Ingale stands acquitted of the offence punishable under Sections 498-A, 306, 304-B of the Indian Penal Code

IV. The bail bonds of the appellant stand cancelled.

V. Fine amount deposited, if any, be refunded to the appellant after the statutory period.

VI. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

[ABHAY S. WAGHWASE, J.]

SPT