2026:BHC-AUG:53674

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 279 OF 2014

Saheblal Jainuddin Shaikh,
Age 45 yrs., Occ. Agri.,
R/o Lakhmapuri, Tq. Shevgaon,
Dist. Ahmednagar.

... Appellant

... Versus ...

1 The State of Maharashtra
Through Police Station Officer,
Police Station, Chaklamba,
Tq. Georai, Dist. Beed.

2 Mohd. Yousuf Shaikh,
Age 24 yrs., Occ. Agri.,
R/o Mategaon, Tq. Georai,
Dist. Beed.

3 Rajbee w/o Yousuf Shaikh,
Age 61 yrs., Occ. Agri.,
R/o Mategaon, Tq. Georai,
Dist. Beed.
(**Admission of appeal declined vide order dated 30.06.2016**.)

4 Yousuf Chandubhai Shaikh,
Age 66 yrs., Occ. Agri.,
R/o Mategaon, Tq. Georai,
Dist. Beed.
(**Abated vide order dated 08.07.2015**.)

5 Rasul Yousuf Shaikh,
Age 31 yrs., Occ. Agri.,
R/o Mategaon, Tq. Georai,
Dist. Beed.
(**Admission of appeal declined vide**

order dated 30.06.2016.)

... **Respondents**

...

Mr. B.K. Patil, Advocate for appellant

Mr. V.V. Jahagirdar, APP for respondent No.1

Mrs. P.V. Giri, Advocate (appointed) for respondent No.2

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 31st OCTOBER, 2026

PRONOUNCED ON : 02nd NOVEMBER, 2026

JUDGMENT :

. Original complainant, who lodged report against present respondents for the offence punishable under Sections 498-A, 306, 323 read with Section 34 of the Indian Penal Code, 1860, getting dissatisfied by the judgment and order of acquittal dated 21.03.2014 passed by Additional Sessions Judge, Beed in Sessions Case No.35/2013 has preferred instant appeal.

PROSECUTION CASE IN BRIEF

2 Before trial Court appellant / informant reported Police Station, Chaklamba, Tq. Georai that his deceased daughter Reshma was married to

accused No.1 Mohammad Shaikh. After treating her well for a period of one year accused husband and in-laws put up demand of share in the land of complainant through Reshma. On that count there was harassment to her, which she time to time reported father / informant. There was also demand of money and beating, which she had reported on phone. Getting fed up of the ill-treatment, Reshma consumed poison on 08.09.2012 and she succumbed. After the funeral, accused husband and in-laws were charge sheeted and tried, but they ultimately came to be acquitted, and hence informant / complainant challenges the said judgment and order by filing instant appeal.

SUBMISSIONS

On behalf of the appellant :

3 Learned counsel for the appellant submits that marriage is of 2009. Deceased committed suicide in 2012 by consumption of poison. The accused persons were harassing deceased Reshma as they wanted her to demand share in her father's property. There was demand as well as ill-treatment till the fateful suicide. He would submit that complainant father has deposed to the above extent by stepping in the witness box. His wife PW 4 has also stepped in the witness box and deposed about above demand and

ill-treatment. There is evidence of brother-in-law also. Further, taking this Court through their testimonies, learned counsel for the appellant submits that, they all are consistent about demand and ill-treatment. Learned counsel for the appellant pointed out that repeatedly understanding was given to the accused, but there was no change in their behaviour. That, a week or so prior to suicide also Reshma had telephoned her father about demand and ill-treatment. That, father and PW 3 had also planned to go to accused to give them understanding, but prior to it there was consumption of pesticides. The same was only because of ill-treatment at the hands of accused and there was no other reason. He submitted that on the point of consumption there is independent evidence in the form of PW 5. Thus, according to learned counsel, there is clinching evidence on the point of demand and ill-treatment. That in spite of witnesses being consistent to that extent, learned trial Court failed to consider and appreciate the same and gave undue importance to minor variances. According to him, learned trial Court has failed to appreciate the settled law. Reasons assigned by Court rather inclined towards prosecution case but findings are contrary to the reasons. He pointed out that there is only part consideration of testimonies of prosecution witnesses. There is failure to consider provisions under Section 113 B of the Indian evidence Act. That, consumption of pesticides proved by Chemical Analyzer is proved positive, but same is ignored. Consequently, he prays to set aside

the impugned judgment by allowing the appeal.

On behalf of respondent / accused :

4 Per contra, learned counsel for respondent No.2 justified the acquittal. She submitted that case of prosecution did not inspire confidence. There are general and vague allegations. That specific instances of cruelty are not coming on record. Witnesses are not consistent since when demand began. The applicants were not present at the relevant place and there was alleged consumption of pesticides and, therefore, there being nothing to connect them, learned trial Court was pleased to acquit them from the charge of Section 306 of the Indian Penal Code. For want of merits appeal is sought to be dismissed.

EVIDENCE BEFORE THE TRIAL COURT AND ANALYSIS

5 After giving thoughtful consideration to the above submissions and perusal of record it is emerging that case of prosecution in trial Court is based on as many as eight witnesses. The status of prosecution witnesses is as under :

5.1 PW 1 is the informant; PW 2 is the panch witness to spot panchnama; PW 3 is the relative i.e. maternal uncle of victim Reshma; PW 4

is the mother of victim; PW 5 is the Crane Operator working on the well of accused; PW 6 is the panch witness; PW 7 is the Investigating Officer and PW 8 is the Medical Officer.

5.2 Crucial evidence is of informant / father of deceased followed that of mother PW 4 and relative PW 3.

5.3 Re-appreciated their evidence. As pointed out by learned counsel for respondent No.2 and as also rightly held by trial Court, witnesses are not consistent and are not lending support to each other. **PW 1** in his evidence at Exh.27 stated that there was proper treatment only for one year after marriage, but his own relative PW 3 in his evidence at Exh.31 stated that there was proper treatment only for 5-6 months, after which demand emerged. Very mother **PW 4** deposed at Exh.32 that there was proper treatment only for 3-4 months. Therefore, as submitted, witnesses are not consistent.

5.4 Secondly, there are allegations of ill-treatment by informant father, but he has not stated when was ill-treatment and in what form and by which of the accused. Similarly, PW 3 and PW 4 mother also level general and vague allegations. Father and mother speak of beating but which of the accused beat Reshma and when, is not clarified, when there are four accused

persons facing trial. Allegations are of receiving telephonic calls from accused but admittedly CDR is not gathered by Investigating Officer to accept such story of prosecution. Further, according to informant-father, such call was made by deceased Reshma 8-9 days after she was dropped at her matrimonial place, but PW 3 deposed that one day prior to the incident itself deceased had called her father. Therefore, there is variance on the point of calling by deceased. Further, in the testimony of PW 3, who is looked upon as an independent witness, omission is brought in paragraph No.2 of cross-examination that after a period of 5-6 months there was ill-treatment on account of demand of money and share in the land of complainant, but informant's evidence is only about demand of share in land and not money. How much amount is demanded is also not stated by PW 3 and PW 4. Rather complainant has admitted in cross-examination that accused also have irrigated agricultural land as well as house property and that their economic condition was better than his economic condition. Therefore, on the point of ill-treatment, there is weak evidence.

6 As regards to charge of Section 306 of the Indian Penal Code is concerned, there is nothing to show that accused persons abated said consumption. What happened on the day of consumption of pesticides and what role each of the accused played, has not come on record. How there

was abetment and by whom, has not been stated by any of the witnesses. Though attempt is made to examine any independent witness, PW 5, who has immediately rushed on hearing consumption, also does not speak about any incident of that day. He merely states that deceased had come to the well where work was going on with the tiffin for accused No.1 and she had left. Resultantly, there is no evidence as to what triggered the consumption and moreover any of the accused is responsible for the same.

7 Consequently, even charge of abetment to suicide is failed and was so rightly held by the learned trial Court.

8 Likewise, there is no evidence to show that accused inflicted any injury or caused simple injury so as to hold them responsible for offence punishable under Section 323 of the Indian Penal Code.

CONCLUSION

9 To sum up here on complete re-appreciation of evidence and re-analysis, here there is no legal acceptable evidence on the point of Section 498-A as well as 306 of the Indian Penal Code. Therefore, the view taken by the learned trial Court being the most possible view, no interference is called for. Hence, following order.

ORDER

(i) The appeal stands dismissed.

(ii) Fees of the appointed Advocate is quantified at Rs.10,000/- (Rupees Ten Thousand only), to be paid by High Court Legal Services Sub Committee, Aurangabad.

(ABHAY S. WAGHWASE, J.)

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