2026:BHC-AUG:51672

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.251 OF 2017

The State of Maharashtra
Through Ruksana Mohammad Shaikh
Age: 40 years, Occu.: Labour,
R/o. Sanjaynagar, Latur,
Taluka and District Latur. **.. Appellant**

Versus

1. Akhtar Muktar Shaikh
   Age: 24 years,

2. Muktar Mohammad Shaikh,
   Age: 45 years,

3. Malekabi Muktar Shaikh,
   Age: 40 years,

4. Altaf Muktar Shaikh,
   Age: 20 years,

   All R/o. Indira Nagar, Kallam,
   Taluka Kallam, Dist. Osmanabad

5. Julekha Isam Wastad
   Age: 24 years,
   R/o. Terna Nagar, Dhoki,
   Tq. Osmanabad, Dist. Osmanabad. **.. Respondents**

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Mr. G. O. Wattamwar, APP for the appellant/State.
Mr. R. R. Shaikh h/f Mr. D. H. Jadhavar, Advocate for respondent Nos.1 to 5.

...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 23.10.2026
Pronounced on : 26.10.2026

JUDGMENT :-

1. In this appeal by State, there is challenge to the judgment and order dated 01.06.2016 passed by the learned Additional Sessions Judge, Osmanabad in Session Case No.132 of 2013 thereby acquitting the respondents from charge under Sections 498-A, 306 read with Section 34 of Indian Penal Code [IPC].

BRIEF FACTS OF THE PROSECUTION CASE

2. In trial Court, case of prosecution was that deceased Farin, daughter of PW6 informant, was married to accused No.1 in the year 2010. Allegations are that merely 15 days after the marriage, there was ill treatment to Farin. There was taunting for not bringing quality gifts in the marriage. There was demand of Rs.50,000/- for purchase of tempo and on such count, there was ill treatment. Getting fed up of ill treatment, Farin hanged herself and, therefore, report Exhibit-38 was filed by PW6, thereby setting law into motion. After investigation of the crime, husband and in-laws were charge-sheeted, tried, but finally acquitted. Hence, instant appeal by State.

SUBMISSIONS

On behalf of appellant/State :-

3. Learned APP would submit that prosecution had proved that barely 15 days after the marriage, all accused persons subjected deceased to harassment for not bringing gifts of their satisfaction. They did not provide her food. There was also demand of Rs.50,000/- for tempo for husband. That, all accused indulged in ill treating Farin. Learned APP pointed out that, deceased used to report it to her mother regularly regarding the treatment meted out to her. That, mother had given understanding to the accused and had expressed her inability to meet their demand because of their poor financial condition. However, accused did not improve and moreover, subjected her to such cruelty, that she was compelled to hanged herself. According to learned APP, unfortunately, panchas and neighbours did not support, but there is convincing evidence of informant/mother and her son-in-law. They were consistent on the point of demand and ill treatment and, therefore, he would submit that learned trial Court ought to have accepted their testimonies and ought to have held them guilty. He further pointed out that investigating machinery had seized suicide note and as such there was another valuable piece of evidence apart from oral account of informant/mother and her son-in-law. There is incorrect appreciation

of evidence resulting into acquittal and so he prays to allow the appeal by setting aside the impugned judgment.

On behalf of respondents :-

4. Per contra, learned Counsel for the respondents justified and supported the judgment and order of acquittal on the ground that there is no evidence either oral or documentary. That, the chit was not proved to be authored by deceased. Therefore, learned trial Court committed no error in acquitting the accused.

EVIDENCE BEFORE THE TRIAL COURT AND ANALYSIS

5. Though prosecution has examined as many as 12 witnesses, it is noticed that both panchas to the spot i.e. PW1 and PW2 as well as immediate neighbours i.e. PW4, PW5, PW8 and PW9 have not supported prosecution. PW3, panch to seizure of notebook Exhibit-31, supported prosecution by deposing that in his presence, seizure of notebook was effected. PW12 seems to be the handwriting expert, who opined that disputed document Q1, when compared to writing marked on Exhibit N-1 to N-7, show similarities indicating their common authorship. However, merely notebook Exhibit-31 is seized and the alleged letter is not proved to be the part of said notebook. Even going by the contents of the letter, it does not contain anything

about any demand of money by accused. Moreover, before the trial Court, the defence seriously disputed the literacy of the deceased so as to question her ability to write either the notebook or the letter. It was expected of the prosecution to first establish that the deceased was educated and able to write, so as to substantiate its case that the chit/letter was penned down by her. Resultantly, mere opinion of handwriting expert, unless the above basic requirements are proved, is of no significance.

6. The prosecution, before the trial Court as well as this Court, seeks to rely on the evidence of the informant/mother and her son-in-law, who are examined as PW6 and PW7, respectively. Therefore, their evidence is analyzed to ascertain whether there is any grain of truth in their testimonies.

7. **PW6** in her evidence at Exhibit-38 stated year of marriage of her daughter and about giving dowry and ornaments as per customs and her daughter going to cohabit with husband and in-laws. According to her, there was proper treatment for barely 15 days and thereafter, there was ill treatment. However, allegations are attributed to all the accused regarding they saying that gifts provided in the marriage were of poor quality and subjecting Farin to ill treatment. Admittedly, she does not elaborate in what form there was

ill treatment. Then, she alleges that all accused put up demand of Rs.50,000/- for tempo, but while under cross-examination, in paragraph No.6, she herself has admitted that at the time of marriage husband of her daughter was already running tempo. Therefore, her such accusation comes under shadow of doubt. Again, without attributing specific role, allegations are of assaulting. When there were as many as five accused persons, it was expected to throw light on the role of the accused and moreover, when such instances took place, she claims that her daughter used to inform her on phone. She also claims in paragraph No.3 of her examination-in-chief that on the birthday of her deceased/daughter, husband scuffled with her daughter and she had reported about it on phone. But, admittedly, investigating machinery has not gathered the details of the phone or even SDR/CDR. She levelled vague allegations against in-laws for instigation. She finally claims of hearing on phone from accused about suicide by her daughter and, therefore, she lodged complaint.

. Her **cross-examination** shows that, her mother-in-law had settled the marriage of her daughter. She has also admitted that her daughter was dear to her mother-in-law. But said mother-in-law is not examined. In cross-examination, she admitted that financial condition of accused was sound. She also admitted in paragraph No.8 that

during *Ramzan* month, accused had come and stayed and there was no complaint lodged at any place. She admitted that birthday of the daughter of deceased was celebrated, but she was not invited and on that day, it seems that unfortunate incident has taken place. Rest is all denial.

8. **PW7,** son-in-law of PW6, who deposed at Exhibit-39, that all accused treated Farin properly for 15 days, but thereafter there was physical and mental harassment. He also does not specify form of physical or mental cruelty, nor he gave specific instances. He merely speaks of ill treatment being inflicted for not providing proper gifts in the marriage. However, in examination-in-chief itself he stated that in the naming ceremony of girl child, all accused were called and they brought necessary gifts and thereafter, Farin was sent back to cohabit with husband. He directly speaks of incident dated 09.08.2012, the date on which suicide, was allegedly committed.

. Nothing adverse is brought in his **cross-examination**, except that accused were not willing to part with the child.

9. As stated above, immediate neighbours PW4, PW5, PW8 and PW9 have not supported prosecution. Thus, here, in the light of above evidence on record, it is apparent that there is weak or no

evidence on the point of cruelty being inflicted in the backdrop of demand. Even as regards to suicide is concerned, there is nothing to show that accused abetted the same or they played any positive role in alleged suicide or hanging. Consequently, there being no element of abetment or instigation even said charge fails. On both count, charges are not proved beyond reasonable doubt.

CONCLUSION

10. Perused the judgment under challenge. It is apparent that learned trial Court has analyzed the evidence in correct perspective and has taken a view which is possible with such quality of evidence on record. Prosecution having failed to bring home the charges, learned trial Court committed no error in acquitting the accused. No case being made out on merits, the appeal deserves to be dismissed. Hence, the following order is passed :-

O R D E R

. Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]

scm