2026:BHC-AUG:50923



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPEAL NO.396 OF 2017**

The State of Maharashtra
Through Police Station Chakur,
Taluka Chakur, District Latur .. Appellant

**Versus**

1. Gautam s/o Digamber Salve
   Age: 27 years, Occu.: Labour,

2. Babasaheb s/o Digamber Salve
   Age: 23 years, Occu.: Labour,

3. Prakash s/o Digamber Salve
   Age: 22 years, Occu.: Labour,

4. Digamber s/o Rama Salve,
   Age: 65 years, Occu.: Labour, Agri.,

5. Sou. Nagarbai @ Nagin w/o Digamber
   Salve, Age: 60 years, Occu.: Household,

6. Sou. Ramabai w/o Babasaheb Salve
   Age: 22 years, Occu.: Household,
   All R/o. Karepur, Tq. Renapur,
   District Latur

**As per Court's order dated 16.08.2017,
Appeal is admitted as against respondent
No.1 only.** .. Respondents

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Mrs. A. S. Mantri, APP for the appellant/State.
Mr. N. D. Kendre, Advocate for the respondent No.1.

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**CORAM : ABHAY S. WAGHWASE, J.**

Reserved on : 21.10.2026
Pronounced on : 22.10.2026

**JUDGMENT :-**

1. This appeal is directed against the judgment and order dated 06.04.2016 passed by the learned Additional Sessions Judge, Latur in Sessions Case No.12 of 2013, by which respondents herein were acquitted from charges under Sections 498-A, 306 read with Section 34 of the Indian Penal Code [IPC].

2. In trial Court, prosecution was lodged against the respondents on the premises that deceased Komal was married to accused No.1 in May 2010. Initially, for a period of 3 to 4 months she was properly treated, but thereafter husband and in-laws insisted for customary function, demanded Rs.15000/- for Borewell and Rs.50,000/- for setting up poultry business. On such count, there was maltreatment, which Komal reported to her family members. On account of non fulfillment of said illegal demands, there was ill treatment to Komal, who, getting fed up of the same, immolated herself on 01.10.2012 and died. Hence, brother of Komal set law into motion. The crime was investigated, accused were charge-sheeted and tried vide above Sessions Case, but they came to be acquitted. Feeling aggrieved by the same, the State has filed instant appeal.

3. Learned APP apprised this Court about the background of the prosecution case in trial Court. She would submit that case of prosecution was based on six witnesses. That, brother/informant, uncles of deceased, who deposed in the court, are consistent about demand as well as ill treatment. Their testimonies have remained unshaken in the cross-examination. There are no contradictions or omissions. That, deceased finally ignited herself only because of the maltreatment meted out to her by the in-laws. According to learned APP, essential ingredients for attracting offence under Section 498-A of the IPC were available in the prosecution evidence. That, accused has abetted the suicide, but there is incorrect appreciation of evidence on record resulting into acquittal and so she prays for setting aside the impugned judgment by allowing the appeal.

4. Per contra, learned Counsel for the respondents justified the judgment and order passed by the learned Trial Court, contending that it is based on a correct appreciation of the evidence and proper application of the settled law.

5. Re-appreciated the evidence. Case of prosecution is based on testimonies of six witnesses. **PW1**, informant/brother of deceased, is examined at Exhibit-48; **PW2**, maternal uncle of deceased, is examined at Exhibit-52; **PW3**, cousin maternal uncle of deceased, is

examined at Exhibit-55; **PW4**, panch witness spot panchanama, is examined at Exhibit-56; **PW5**, Police Head Constable, who registered crime and drew inquest panchanama, is examined at Exhibit-60; and **PW6**, the Investigating Officer, is examined at Exhibit-67.

. Accused has also adduced evidence of **DW1**.

6. On re-appreciation of the evidence, more particularly that of the informant, **PW1**, whose testimony is at Exhibit-48, it is noticed that he has stated that, after four months of marriage, the accused himself allegedly demanded that a customary function be conducted. He further claims that, during the Diwali festival, he learnt from his sister that the accused desired to dig a borewell and, for that purpose, her husband and father-in-law had demanded Rs.15,000/-. It is pertinent to note that, though he speaks of such demand, till that point of time, he does not attribute any maltreatment or physical or mental harassment to the accused. In fact, he claims to have fulfilled the demand of Rs.15,000/-, but there is no distinct evidence to that effect. The second allegation levelled by him is regarding a demand of Rs.50,000/- for a poultry business. Even at this stage, he does not allege that any physical or mental cruelty was inflicted upon his sister. He directly states that his sister informed him that she was being ill treated and beaten. However, when there are six accused persons,

when was the beating and who played what role has not been stated by him. He finally speaks of receiving a phone call informing him that his sister had left the house, followed by second call informing him that she had consumed poison. Finally, when they went there, they learnt that she had sustained burn injuries. The said incident is occurred on 01.10.2012, but what exactly happened on that day is not stated to be learned by him.

7. **PW2,** maternal uncle of deceased, in his evidence at Exhibit-52, has merely stated about harassment for demand of Rs.50,000/- for setting up of poultry and as such, he does not speak about any insistence for performing customary function or about demand of Rs.15,000/- for borewell. He also deposed about getting news of his niece leaving the house and then later on learning about she suffering burns.

8. **PW3**, the cousin maternal uncle of deceased, who is examined at Exhibit-55, has stated about demand of Rs.15,000/- for digging a borewell, however, his evidence is silent about any insistence on conducting a customary function. Though he claims that the deceased was harassed over a demand of Rs.50,000/- for poultry business, he has levelled general and omnibus allegations against all the accused persons.

9. Thus, what is emerging from evidence of close relatives is that there was proper treatment for three to four months, but thereafter there was insistence by in-laws to perform a customary function. There was said to be demand of Rs.15,000/- for borewell, but witnesses, more particularly, informant/brother does not speak about any maltreatment followed by said demand. Moreover, there is admission by all the three witnesses that financial condition of accused is better than complainant's side. All these witnesses though speak of ill treatment and harassment, apparently allegations are non specific, general and vague. None of them has stated in what manner the deceased was ill-treated or whether the harassment was physical or mental.

10. The essential ingredients of offence under Section 498-A the IPC are as follows:

(1) A woman was married,
(2) She was subjected to cruelty,
(3) Such cruelty consisted in -

(i) Any willful conduct as was likely to drive such woman to commit suicide or to cause grave injury or danger to her life,

(ii) harm to such woman with a view to coercing her to meet unlawful demand for property or valuable security or on account of failure of such woman or any of her relations to meet the unlawful demand;

(iii) the woman was subjected to such cruelty by her husband or any relation or her husband

11. There are series of judgments wherein Hon'ble Apex Court has repeatedly observed and held that in case of general, vague and omnibus allegations without specifying role or giving specific instances of cruelty, charge of Section 498-A would not automatically get attracted. Such observations are reflected in ***Kans Raj v. State of Punjab and others*** [Appeal (crl.) 688-90 of 1993 decided by the Hon'ble Apex Court on 26.04.2000]; ***State of Andhra Pradesh v. M. Madhusudhan Rao*** (2008) 15 SCC 582; ***Neelu Chopra and another v. Bharti*** (2009) 10 SCC 184; ***Geeta Mehrotra Vs. State of U.P.*** (2012) 10 SCC 741; ***Bhaskar Lal Sharma and Anr. v. Monica and Ors*** AIR 2014 SC (Supp) 1310; ***K. Subba Rao v. The State of Telangana*** ; (2018) 14 SCC 452 wherein, as to what constitutes offence under Section 498-A and when it can be said to be made out has been dealt and discussed.

. Even the Hon'ble Apex Court, in the case of ***Naresh Kumar v. State of Haryana*** (2024) 3 SCC 573 observed that, to constitute offence of cruelty, there has to be incessant or continuous form of cruelty.

. In the case of ***Yashodeep Bisanrao Vadode v. State of Maharashtra*** (2024) SCC Online SC 2989, the Hon'ble Apex Court observed that, by way of evidence, specific acts and role of accused has to be demonstrated for attracting Section 498-A IPC.

. Very recently in ***Rajesh Chaddha v. State of Uttar Pradesh*** [2025 SCC OnLine SC 1094] the Hon'ble Apex Court has observed in para 14 as under :

> *"The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. ……"*

. Here, evidence on behalf of prosecution is falling short of above requirements on point of Section 498-A of IPC.

12. As regards to offence under Section 306 of the IPC is concerned, there is no evidence that on the day or in proximity to it there was any physical or mental cruelty in the backdrop of demand. Moreover, by examining DW1, defence has probabilized that husband was required to force his entry in the house by dismantling the tin

roof i.e. after episode of burning. Prosecution evidence is silent as to what prompted deceased to incinerate herself. There is no element of abetment, instigation so as to attract offence under Section 306 of the IPC. By catena of judgments, the Hon'ble Apex Court has time and again reiterated that for attracting offence under Section 306 of IPC, firstly there has to be *mens rea* and secondly, there has to be evidence about positive role played by accused in instigating the suicide. Such essentials are missing in the prosecution case.

13 Perused the judgment under challenge. It appears that learned trial Court has dealt with the testimony of each and every witness and has appreciated the same in the light of requirements of law. There is no perversity or illegality in the impugned judgment. Bearing in mind the principles while dealing with the judgment of acquittal, this Court does not find any reason to interfere and to substitute its own view for overturning the judgment. The appeal being devoid of merits deserves to be dismissed. Hence, the following order :-

**O R D E R**

. Criminal Appeal is dismissed.

**[ABHAY S. WAGHWASE, J.]**

scm