2026:BHC-AUG:52960

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 CRIMINAL APPEAL NO. 627 OF 2012

The State of Maharashtra
Through Police Station, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.

... Appellant

... Versus ...

1 Chandrashekhar Bapurao Birajdar,
Age 29 yrs., Occ. Service,
R/o Daithana, Tq. Shirur Anantpal,
Dist. Latur.

2 Rajnarayan Bapurao Birajdar,
Age 37 yrs., Occ. Agri.,
R/o as above.

3 Vikram Bapurao Birajdar,
Age 32 yrs., Occ. Agri.,
R/o as above.

4 Paragbai @ Bharatbai w/o Bapurao Birajdar,
Age 70 yrs., Occ. Household,
R/o as above.

5 Bapurao Ganpatrao Birajdar,
Age 80 yrs., Occ. Agri.,
R/o as above.

6 Sunita w/o Gangadhar Shinde,
Age 35 yrs., Occ. Household,
R/o as above.

7 Kum. Jyoti d/o Gangadhar Shinde,
Age 19 yrs., Occ. Education,
R/o as above.

8 Shrihari Apparao Patil,
Age 45 yrs., Occ. Business,
R/o Achawala, Tq. Deoni,
Dist. Latur.

(**Appeal dismissed to the extent of respondent Nos.2 to 8 vide order dated.29.10.2012**.)

... Respondents

...

Mr. V.S. Badakh, APP for appellant

Ms. Shilpa Aurangabadkar, Advocate h/f Mr. S.S. Jadhav, Advocate for respondent No.1

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 29th OCTOBER, 2026

PRONOUNCED ON : 30th OCTOBER, 2026

JUDGMENT :

. In this State appeal there is challenge of judgment and order of acquittal dated 21.01.2012 passed by learned Additional Sessions Judge, Ahmedpur in Sessions Case No.67/2011 acquitting the accused from charge under Sections 306, 498-A read with Section 34 of the Indian Penal Code, 1860.

PROSECUTION CASE IN BRIEF

2 Before trial Court, case of prosecution was that, present

respondent No.1 /accused No.1 / husband was married to deceased Kanchan and she went to cohabit with him as well as his family members. It is the case of prosecution that for initial period of six months Kanchan was treated properly, but thereafter demand of money and gold emerged from husband and in-laws and for meeting said demand there was harassment. Deceased was kept starved, abused and assaulted. On 24.06.2009 getting fed up of the maltreatment deceased immolated herself. PW 1 / father lodged report Exh.46 at Ahmedpur Police Station, in consequence to which crime was registered for above offence bearing No.110/2009. The crime was investigated and in all eight persons came to be charge sheeted and tried but finally all came to be acquitted. Hence, instant appeal by State.

SUBMISSIONS

On behalf of the Appellant-State :

3 Learned APP would appraise this Court about the above case of prosecution in trial Court. He would submit that complaint was received that after six months of marriage all accused persons put up demand of money and gold which they wanted deceased Kanchan to bring from her parents. That all accused are named in the complaint. There was ill-treatment in the form of keeping starve, abusing and beating. Informant / complainant has deposed to that extent in his evidence and there is support from relative PW

2. That there was no other reason for deceased to set herself on fire that only because of continuous ill-treatment and harassment deceased Kanchan took the extreme step. He pointed out that investigating machinery has gathered sufficient, reliable material, but the same has unfortunately not been appreciated correctly by the trial Court, resulting into acquittal. Hence, he prays to interfere by allowing the appeal.

<u>On behalf of the Respondent-Accused</u> :

4 Per contra, learned counsel for respondent No.1 would also take this Court through the evidence of informant / father and relative and would submit that their testimonies are full of vague, general and omnibus allegations. Their evidence is also full of material omissions and contradictions. That evidence of prosecution was lacking essential ingredients on the point of Section 498A of the Indian Penal Code. It is pointed out that as regards to charge of abetment of suicide is concerned, there is no iota of evidence about instigation, abetment or inducement in any form. That no role whatsoever of any accused is coming on record to attribute suicidal death to them. That learned trial Court has thus finding no evidence rightly refused to accept the case of prosecution and acquitted the accused and it is submitted that the well reasoned judgment needs to be interfered.

EVIDENCE BEFORE THE TRIAL COURT

5 In the light of above submissions, evidence adduced by prosecution in trial Court is put to scrutiny. Brief account of the evidence before trial Court is as under.

5.1 **PW 1** informant / father deposed at Exh.45 about marriage of his deceased daughter Kanchan with accused No.1 Chandrashekhar on 20.05.2006. According to him, for 6-7 months accused treated Kanchan properly, then he states that accused No.2, accused No.3, who are brothers of accused No.1, accused No.4 mother in-law, accused No.5 father-in-law and accused Nos.6 and 7, who are niece and maternal uncle of accused No.1 started harassing Kanchan. They demanded Rs.1,00,000/- and five tola gold and on such count ill-treated her. That, when father and uncle went to fetch Kanchan, she was not allowed to go. That, accused persons gave tablets to Kanchan and thereby terminated her pregnancy. That, once when he went with Baburao, accused No.1 asserted the above demand. That he brought his daughter home and stayed about one and half year and during said period as there were threats from accused No.1, he lodged report with police. That, because of the threat his daughter has decided not to go for cohabitation. On 24.06.2009 deceased had been to hospital at Latur and stayed with his brother. Accused No.1 made a phone call on the mobile of his brother and

over the phone he threatened Kanchan to come with Rs.1,00,000/- and five tola gold and on her failure he would kill her parents. As such his daughter started crying. Next morning when he and his son went to the field and while his wife and mother were in the house, Kanchan poured kerosene on herself and set herself on fire. After the funeral he lodged above report.

5.2 Above witness has faced extensive cross on the status of relatives, their marriages, stay etc. In paragraph No.6 he answered that he has stated in his report that accused persons gave tablets to Kanchan and terminated her pregnancy, but it is found to be an omission. He claims that before lodging report he knew the mobile number of his brother, over which Kanchan was phoned at Latur, but admitted that his report is silent about the number. He admitted that Kanchan committed suicide after one year at her maiden house.

5.3 **PW 2** Baburao relative at Exh.62 deposed that after marriage he along with PW 1 had gone to the house of accused at the time of festival to bring Kanchan but they did not send her. At that time, accused No.1 told them to give Rs.1,00,000/- and five told gold and only then take Kanchan. But on their request the Kanchan was brought and on the way Kanchan informed that accused had given her tablets for terminating her pregnancy twice and after some days Kanchan suffered burns and died. According to

him, a day prior to the death accused No.1 had phoned Kanchan.

5.4 While under cross, he admitted to be a relative and friend of PW 1. He admitted that he got acquainted with accused No.8 on the day when he had been to the house of accused to bring Kanchan and that prior to it he had been to the village of accused. He is unable to recollect day, date, month and year when he had been to fetch Kanchan. Even in his cross, omission is brought about accused persons giving tablets to Kanchan for terminating her pregnancy. He also claims that he learnt from one Diliprao that one day prior to the incident accused had made telephone call.

5.5 **PW 3** is the Investigating Officer and **PW 4** is the Nodal Officer, who placed on record CDR and SDR of mobile Nos.9850366804 and 9420870710, but under cross-examination he has admitted that he does not know who is the registered owners.

5.6 **PW 5** is the uncle and even according to him, after 7-8 months of cohabitation accused started harassing Kanchan. They were mentally torturing her for demand and they terminated her pregnancy twice. According to him, when PW 1 went to fetch Kanchan, accused demanded 10 tola gold and Rs.15,000/-. That, on 24.06.2009 Kanchan has come to his house for treatment and on that day accused made phone call on his phone

which was received by Kanchan, after which she learnt from her that accused is threatening her. Next day, brother of Kanchan came to house and took Kanchan and then he learnt about Kanchan pouring kerosene on herself and setting herself ablazed.

ANALYSIS AND CONCLUSION

6 On analyzing above evidence, indeed, as submitted by learned counsel for respondent No.1, here there are general omnibus allegations about accused ill-treatment in the backdrop of demand of money and gold by PW 1. He does not state how much was the amount of demand. Though he alleges that there was harassment, in what form there was cruelty and by which of the accused it has done what or inflicted cruelty and in what form, has not been stated by him. Here, it is the case of accused residing jointly, then it was expected of this witness to attribute distinct role of each of the accused, which has not happened.

7 Further, though PW 2 a relative is examined, his evidence is cryptic. He does not state since when there was demand and ill-treatment. He seems to have merely accompanied PW 1 to fetch Kanchan and on the way claims to have learnt about accused giving Kanchan pills for terminating her pregnancy, but cross of PW 1 and PW 2 clearly shows that it is material

improvement, which is not finding place in their statement before police.

8 Though uncle PW 5 is also examined, his version is different than that of PW 1 / informant, on the count that he attributed demand of 10 told gold and Rs.15,000/- cash, which is not stated even by PW 1 / informant in his testimony before the Court.

9 Therefore, when there are vague and general allegations of harassment against eight accused without giving specific instances of the form or when there was ill-treatment, charge of Section 498-A of the Indian Penal Code fails, case of prosecution cannot be accepted and was rightly discarded by learned trial Court.

10 As regards to charge of Section 306 of the Indian Penal Code is concerned, it is fairly settled position and time and again, in umpteen judgments, Hon'ble Apex Court as well as this Court has reiterated that, apart from inducement, direct instigation, active participation, there has to be *mens rea* also. The proximate trigger which led to suicide is also time and again clarified while dealing with above provision.

10.1 Few cases that could be named are, **Ramesh Kumar vs. State of Chhattisgarh** [(2001) 9 SCC 618], **S. S. Chheena vs. Vijay Kumar Mahajan and Others** [(2010) 12 SCC 190] as well as **M. Mohan vs. The State**

represented by The Deputy Superintendent of Police [MANU/SC/0161/2011], wherein standard of "instigation" is elaborately dealt and discussed.

10.2 Even, recently in the case of **Abhinav Mohan Delkar vs. State of Maharashtra and others** [MANU/SC/1103/2025] the Hon'ble Apex Court has reinforced "proximate trigger" doctrine emphasizing that there has to be close temporal and casual connection between the conduct of accused and the alleged suicide. Continuous harassment, without recent instigation, is held to be not sufficient to sustain the charge.

11 Bearing in mind above legal requirements for attracting charge of Section 306 of the Indian Penal Code, and referring to the evidence in the case in hand, it is noticed that since one and half year to the episode of immolation deceased was with her parents i.e. informant. Except circumstance that accused No.1 made telephone call on the mobile of PW 5, there is nothing to connect any of the offence for the alleged suicide. Moreover, call was received on the phone of PW 5 and not directly on the phone of deceased. Furthermore, even PW 5 like PW 1 does not speak that after the telephone call with accused Kanchan started crying and there were threats to kill her parents. Though efforts are taken to examine nodal officer of the mobile cell company, this witness is unable to state, who is the owner

of both mobiles, of which CDR, SDR were obtained. Mere call records are not sufficient, unless there is evidence supported with actual conversation. Therefore, such piece of evidence is of no avail to the prosecution. Accused are miles apart i.e. at Daithana, Tq. Shirur, Dist. Latur, whereas informant / PW 1 with whom deceased was put up since one and half month is resident of Bhutekarwadi, Tq. Ahmedpur, Dist. Latur. Except this piece of evidence of alleged telephone call, there is nothing to connect accused with the suicide of Kanchan, which has taken place in her father's place. Mother of deceased was also said to be in the house, but her statement is not recorded.

12 Thus, as a result of above discussion and above quality of evidence on record, this Court is also convinced that prosecution failed to prove the charges beyond reasonable doubt. The view taken by trial Court is the possible view with such quality of evidence. There being no illegality of perversity in the impugned Judgment, there is no need for interference. Hence, following order.

ORDER

The appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)

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