IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 839 OF 2018

Vitthal S/o. Venkati Kadam
Age : 31 years, Occu.: Agril.,
R/o. Kuntur, Tq.Naigaon,
District Nanded. ….Appellant
(Ori. Accused No.1)

Versus

The State of Maharashtra
Through Police Station Kuntur,
Tq.Naigaon, District Nanded. …..Respondent

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Mr.Madhukar M. Parghane, Advocate for Appellant.
Mr.N.D.Raje, APP for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 26-10-2026
Pronounced on : 27-10-2026

JUDGMENT :

1. This appeal is directed against Judgment and order dated 15-11-2018 rendered by learned Additional Sessions Judge, Biloli on in Sessions Case No.1400019 of 2013 convicting accused No.1 husband for offence under Sections 498-A and 306 of the Indian Penal Code (IPC).

BRIEF FACTS OF THE CASE

2. Before trial Court, prosecution set up a case that, Parvati was

married to appellant/accused No.1 in 2008. After initially treating Parvati properly for a period of one year, accused persons maltreated her and subjected her to cruelty in the backdrop of demand of motorcycle as well as money for digging bore well. Whenever Parvati came for festivals, she used to report about above demand and ill treatment. Understanding was given to the accused, but there was no improvement and ill treatment continued and only due to it, deceased Parvati hanged herself and ended up her life. Therefore, informant father PW4 approached Police Station, gave complaint Exhibit 25, on the basis of which, investigation was carried out and it is culminated into filing of chargesheet followed by trial.

Learned trial court was pleased to appreciate the prosecution evidence and by above mentioned Judgment and order, accused Nos.2 to 5 came to be acquitted but accused No.1 husband alone came to be convicted and it is now he, who is challenging said Judgment and order dated 15-11-2018.

SUBMISSIONS

On behalf of Appellant :

3. Learned counsel for appellant would submit that, case of prosecution is based on evidence of 7 witnesses. According to him, panchas have not supported prosecution case. That, there is only

evidence of family members and there is no independent witness. That, even their evidence does not inspire confidence as according to him, there are vague, general abd omnibus allegations against all accused. He pointed out that, regarding demand of motorcycle, how much amount was demanded is not consistently stated by witnesses. That, similarly how much amount was demanded for digging bore well is also not coming on record. Rather, he would point out that, informant himself had admitted that there was already bore well existing in the field of accused, therefore, there is no question of setting up any demand or ill treating deceased in that backdrop. He pointed out that, there is a gap of almost one month between alleged demand and alleged suicide and thus, according to him, by no stretch of imagination, such allegations would constitute abetment to commit suicide. He pointed out that, here, on the same set of evidence, learned trial Court has given clean chit to accused Nos.2 to 5, but accused No.1, husband is singled out and he is convicted. Thus, seeking reliance on the following Judgments of this Court, he prays to interfere in the impugned Judgment by allowing the appeal.

(a) *Yadavrao v. State of Maharashtra, 2024 SCC OnLine Bom.1205.*

(b) Judgment dated 23-02-2024 in *Sunil Bharat Pardeshi v. The State of Maharashtra in Criminal Appeal No.224 of 2002*.

(c) Judgment dated 18-03-2024 in *Satish and Ors. v. The State of Maharashtra, Criminal Appeal No.73 of 2003*.

(d) Judgment dated 22-07-2024 in *Laxman s/o Vishwanath Waghmare v. The State of Maharashtra in Criminal Appeal No.104 of 2004*.

On behalf of Respondent :

4. In answer to above, learned APP would point out that, learned trial Court has correctly appreciated the evidence. That, there is evidence on the point of demand as well as ill treatment. He would submit that, merely because witnesses are related, their evidence cannot be thrown out, moreover, when it is consistent and inspiring confidence. He would point out that, barely before the suicide, witnesses speak about demand followed by ill treatment and as such, according to him, no fault can be found in the manner of appreciation of evidence and for want of merits, he prays to dismiss the appeal.

BRIEF ACCOUNT OF PROSECUTION EVIDENCE IN TRIAL COURT

5. **PW1** Balaji Kadam is Pancha to spot panchanama.

PW2 Deobai Digamber Kadam, neighbour did not support prosecution as she deposed that she is unable to tell why Parvati committed suicide.

PW3 Chandrabai Kadam, second neighbour also gave similar treatment to the prosecution case by deposing in examination-in-chief itself that she was unable to tell why Parvati committed suicide and whether there was harassment resulting into suicide.

6. **PW4** Baburao Vithalrao Thete is the father and informant and it has come in his evidence that, after marriage of his daughter with accused No.1, she went to cohabit. That, after marriage till one year, her married life was good, but subsequent to that, there was ill treatment by husband, in-laws, sister-in-law on account of demand of motorcycle and demand of money. That, accused used to keep Parvati starve and even abused her. That, whenever Parvati came for festival to their house, she informed about above incidents. That, he and his brother once or twice went to convince accused, but their efforts went in vain. That, 7-8 days prior to her death, she had come to their house and told about demand of money for motorcycle and digging bore well and there to be ill treatment on that count. That, she was sent back with his nephew Ananda, who was allegedly questioned by accused No.1 why he brought Parvati to her matrimonial house and on the next day, it was learnt that Parvati committed suicide by hanging herself and therefore, he lodged report at Exhibit 25.

7. **PW5** Maroti Vithal Thite is uncle of deceased and brother of PW4. He deposed that after one year, whenever Parvati came to parents' place, she narrated about ill treatment and told that her

family members had asked her to bring Rs.60,000/- for motorcycle and Rs.1,00,000/- for tube well expenses. That, accused were told that whenever amount would be available, it would be paid, but there was no change in their attitude and ill treatment continued and because of ill treatment, she was brought to parents' place. That, 8-10 days prior to the incident, his son Ananda left Parvati at the house of accused, at that time, accused No.1 abused him for failing to pay the amount for purchasing motorcycle or to bear expenses of bore well. On the next day, they learnt that Parvati had committed suicide by hanging herself.

8. **PW6** Ananda Maroti Thete, cousin brother of deceased, deposed at Exhibit 27 that, prior to 8 days of incident, Parvati had come to parents' house and she told that family members are demanding amount to her but her father and brother telling them that they do not have amount to pay but promised to pay it later on. That, he left Parvati at matrimonial house and at that time, accused No.1 asked him whether amount was brought or not and that, he told him that father of Parvati would be coming in 3-4 days and he came back. That, on the next day, Parvati hanged herself. According to him, she had ill treatment at the hands of accused. That, they used to beat her, not providing food and not allowing to enter in the house.

PW7 Ashok Vinayakarao Chate (Retired P.I.) is the Investigating Officer, who narrated all the steps taken by him during investigation.

ANALYSIS AND CONCLUSION

9. In brief, case of prosecution in trial Court was that, after one year of marriage, Parvati was subjected to cruelty in the backdrop of demand of motorcycle and money for digging bore well. Though 7 witnesses are examined, as is emerging from evidence, PW1, PW2 and PW3 i.e. pancha and immediate two neighbours have not supported prosecution case. Therefore, evidence that remains for consideration is of PW4 father, PW5 uncle and PW6 cousin brother of deceased. It is expected that they lend support to each other on material count of both demand as well as ill treatment and as such, their evidence is put to minute scrutiny.

It is noticed that, **PW4** informant, who has set law into motion, merely speaks of ill treatment by husband, in-laws, sister-in-law on account of demand of motorcycle and demand of money. According to him, accused used to starve her and abuse her. Thus, as submitted, he does not speak about the amount of demand raised for motorcycle. Secondly, he does not speak about demand of money raised for digging of bore well. Again he raises general allegations against all

accused i.e. husband, in-laws and sister-in-law. Learned trial Court has already acquitted accused Nos.2 to 5. Therefore, unless demand is specifically attributed to accused No.1 husband alone, he ought not to have been singled out by the trial Court. Moreover, in his cross-examination, informant admitted that, he is unable to give exact date, month, year when demand of motorcycle was raised. In paragraph 6 of the cross-examination, he admitted that demand of money to dig bore well was raised prior to one month of death of Parvati, but in the same paragraph, he admitted that, part demand of accused was met through one Devidas Patil. But said Devidas Patil is not examined. He further admitted that, bore well came to be dug in the field, but he is unable to state when it was dug and further admitted that, accused dug the bore well when he lastly took Parvati back to his house.

10. **PW5** uncle of deceased and brother of PW4 stated that after one year, when Parvati came to parents' house, she narrated ill treatment. He does not specify which of the accused ill treated in what manner. He merely speaks that she was telling that her family members told her to bring Rs.60,000/- for motorcycle and Rs.1,00,000/- for tube well expenses, but PW4 informant father has not quoted the amount. This witness deposed that, his own son Ananda went to drop Parvati after she stayed for 8-10 days at parents

house and at that time, it is alleged that accused husband abused him for failing to pay amount and on next day, news of suicide was learnt.

Omission is brought in his cross-examination that after one year of marriage of Parvati, demand for motorcycle and bore well was raised. He admitted that before last visit of Parvati, she had come for Dipawali, which should be around October-November, but apparently suicide by Parvati is of 18-01-2013 i.e. after 2-3 months after Dipawali and it is not even in immediate proximity to the alleged suicide by deceased.

11. PW6 is cousin brother of Parvati and son of PW5 and he in his evidence, as stated above, has stated that Parvati during her stay of 8 days at parents' house informed him that her family members are demanding amount and that her father and brother told them that they do not have amount to pay and they would pay later on. According to him, when he left her at matrimonial house, accused No.1 asked him whether amount has been brought. Therefore, there is mere demand attributed to accused No.1, however, the fact that on account of failure to meet demand only, deceased was subjected to cruelty and thus she committed suicide, is not proved by prosecution independently because here immediate neighbours namely PW2 Deobai and PW3 Chandrabai flatly denied in examination-in-chief

that only because of harassment by accused, deceased committed suicide. In fact these are independent witnesses. Therefore, there is no independent corroboration regarding visit of PW6 to drop Parvati at matrimonial house one day earlier to alleged suicide.

12. For attracting charge under Section 498-A of the IPC, it is expected of prosecution to demonstrate that accused persons maltreated deceased only for demand that too in consistent manner. It is fairly settled position that details of the infliction of ill treatment are to be supplied. Prosecution version comes under shadow of doubt when allegations are general and vague. Law to this extent is propounded by the Hon'ble Apex Court in the case of ***Rajesh Chaddha v. State of Uttar Pradesh*** [*2025 SCC OnLine SC 1094*]. The Hon'ble Apex Court has observed in paragraph 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. ……"*

Likewise, in the case of ***Manju Ram Kalita v. State of Assam****, (2009) 13 SCC 330,* the Hon'ble Apex Court has observed that, it must be established that the woman has subjected to cruelty

continuously or in close proximity of time of lodging the complaint.

Here, Informant father's evidence, as pointed out, is silent about quantum of demand or manner and nature of ill treatment. Uncle of deceased seems to have hearsay information. Therefore, charge under Section 498-A of the IPC is not proved beyond reasonable doubt.

13. For attracting charge under Section 306 of the IPC, it has to be shown that accused No.1 husband abetted the suicide or he instigated the suicide. What positive role accused No.1 husband played has not been demonstrated by the prosecution. Hence, there is weak evidence on the point of offence of Section 306 of the IPC.

14. It is also pertinent to state that, on the same set of evidence, learned trial Court has acquitted original accused Nos.2 to 5 from all the charges.

Law is fairly settled that, on the same set of evidence, if co-accused is acquitted then other accused also deserves similar treatment on the ground of parity. On this proposition, reliance can be placed on the Judgment of Hon'ble Apex Court in the case of ***Javed Shaukat Ali Qureshi v. State of Gujarat***, *MANU/SC/1012/2023*

wherein earlier judgment of Hon'ble Apex Court in the case of ***Harbans Singh v. State of U.P. and Others*** reported in *(1982) 2 SCC 101*, was referred to and it was observed in paragraph 15 as under:

> *"When there is similar or identical evidence of eye witnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. In such a case, the cases of both accused will be governed by the principle of parity. This principle means that the criminal court should decide like cases alike, and in such cases, the court cannot make a distinction between two accused, which will amount to discrimination."*

Similarly, in another Judgment of the Hon'ble Apex Court in the case of ***Yogarani v. State by the Inspector of Police****, reported in MANU/SC/1046/2024*, the Hon'ble Apex Court has referred to the judgment of ***Javed Shaukat Ali Qureshi*** i.e. above judgment and reproduced paragraph 15, which is reproduced in aforesaid paragraph.

Likewise, again the Hon'ble Apex Court in a recent judgment of ***Vaddi Ratnam v. State of Andhra Pradesh*** *reported in MANU/SC/1344/2025* in paragraph 9 reiterated the above law.

In present case also on the same set of evidence, the learned

trial Court seems to have acquitted accused Nos.2 to 5 from all the charges and therefore, applying the principle of parity, learned trial Court ought to have acquitted appellant/accused No.1 also.

15. Therefore, in view of the above discussion, indulgence and interference at the hands of this Court is called for. Accordingly, following order is passed:

ORDER

I. The appeal is allowed.

II. The conviction awarded to the appellant Vitthal S/o. Venkati Kadam by learned Additional Sessions Judge, Biloli in Sessions Case No.1400019 of 2013 under Sections 498-A, 306 of the Indian Penal Code on 15-11-2018 stands quashed and set aside.

III. The appellant stands acquitted of the offence punishable under Sections 498-A, 306 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