

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPEAL NO. 289 OF 1995

The State of Maharashtra

Appellant/orig.
complainant

versus

1. Suresh Ramchandra Raut,
age 29 years,
2. Raosaheb Ramchandra Raut,
age 43 years,
3. Ramchandra Vithoba Raut,
age 62 years,
4. Padminibai w/o Ramchandra Raut,
age 57 years,

All residents of Kati, Taluka
Tuljapur, District Osmanabad.

Respondents/
orig. accused

Smt. V. A. Shinde, A. P. P. for Appellant-State
Shri Satej S. Jadhav, Advocate for Resp. Nos. 1 & 2
Shri Sachin S. Deshmukh Adv. for Resp. Nos. 3 & 4

CORAM : A. H. JOSHI AND
SUNIL P. DESHMUKH, JJ.
DATE : NOVEMBER 30, 2012

Judgment (Per: Sunil P. Deshmukh, J.)

1. This is an appeal by the State against judgment and order dated 28.6.1995 delivered by learned IInd Additional Sessions Judge, Osmanabad, recording acquittal of the Respondents-accused in respect of offences punishable under Sections 498-A, 304-B and 306 of the Indian Penal Code read with Section 34 thereof.

2. Admitted facts are :

- (a) Anita and Aruna are daughters of Dnyanoba Dhage, resident of Kati, Taluka Tuljapur.
- (b) Anita was married to Shivaji.
- (c) Thereafter in 1989, Aruna was married to Suresh Ramchandra Raut.
- (d) Shivaji-husband of Anita and accused No. 1 Suresh are real brothers.
- (e) Paternal and matrimonial houses are in the same village.
- (f) Avinash is brother of Aruna and Anita. Avinash was taking medical education in Bhausaheb Vainshanpayan College, Solapur.
- (g) From the marital relationship, Swapnesh was born to Aruna and Suresh.
- (h) Suresh with family had been staying either in joint family or quite close-by.

- (i) Anita had no complaints of ill-treatment by her in-laws.
- (j) Sangita Mali-nee Dhage was friend of Aruna and both had taken education upto 9th standard, together.
- (k) Aruna had one more brother.
- (l) Ramchandra - the father of Suresh, is maternal uncle of Anita and Aruna's father Dnyanoba.

3. In the morning of 21.9.1991, Aruna jumped into the well situated in the field of one Bharat Shinde (Parit) along with male child Swapnesh who was 8 month old. Aruna as well as the child died due to drowning.

4. Dnyanoba-father of deceased Aruna, gave complaint soon after the funeral of Aruna and her son Swapnesh, to the police. It is stated therein that:-

After initial period of about a year from the marriage, Aruna was being ill-treated and harassed and during her pregnancy T. V. set was demanded and was given by the complainant Dnyanoba. Accused made demands of dowry, gifts, articles and various valuable things. Due to these repeated demands accompanied by ill-treatment, Aruna was unhappy in her matrimonial house.

5. Four persons were charged with the offences punishable under Sections 304-B, 306 read with Section 34 of I.P.C. namely, Suresh-husband of deceased Aruna, Raosaheb-brother in law, Ramchandra - father in law and Padminibai-mother in law.

6. In all, ten prosecution witnesses have been examined, including four panchas, Sangita- friend of Aruna (PW-5), Anita-sister of deceased Aruna (PW-6), Surekha-step mother of Aruna (PW-3), Avinash-brother of Aruna (PW-2) and her father Dyandeo (PW-1).

7. The spot and inquest panchanamas are unquestioned and so are the testimonies of the concerned relevant panchas.

8. It is the case of the prosecution that:-

- (a) Aruna went to her parental house before 21.9.1991 and had taken meals there and thereafter she had returned to matrimonial house. In the morning of 21.9.1991, as Aruna was not seen by Anita, she went on searching for her and had come to her parents' house and had seen Surekha-step mother of deceased Aruna. On enquiry, the mother had told that Aruna had taken meals and thereafter she had returned to matrimonial house.
- (b) It is contended that Aruna had been been complaining of harassment to her friends and parents.
- (c) A few days before the aforesaid incident, Aruna was required to take her son Swapnesh to Solapur where her brother Avinash was studying medical science, to have him medically examined. She had been to Solapur along with her other brother,

however, by the time they had reached Solapur, the out patient department of the hospital was closed and she was asked to visit on the next day. On return to Kati from Solapur, Aruna's mother in law had teased and taunted by asking her as to whether she had been to Solapur with her brother or a friend ?. It is then stated that this insulting, teasing and torture had led Aruna to commit suicide.

9. It emerges from the record that :-

- (a) Anita was married to the brother of the husband of deceased Aruna and Anita appears to be staying in the matrimonial house without any such complaints about the incidents of demands of dowry, gifts, valuable articles etc.
- (b) The marriage of Anita is earlier in time to the marriage of Aruna and appears to be a smooth relationship.

- (c) It is not disputed that it is the complainant's brother who had taken husband of Aruna to the police station and had caused to give report about missing of Aruna and finding her dead body in the well along with her dead son Swapnesh.
- (d) It has also come on record that Aruna had returned from Solapur on 17.9.1991 itself and on the very same day, alleged taunting had taken place which had not been allegedly taken in well and it was on 21.9.1991, she committed suicide.
- (e) Though the prosecution witness Sangita had stated that they were studying in the same class upto 9th standard and even after Aruna's marriage, they continued meeting and it was told to her by deceased Aruna that she was not being treated well in her matrimonial house any such complaint was not made by sister of Anita who had been married in same family, until the date of incident.

- (f) Although Prosecution's Witnesses 1,2,3 and 6 similarly depose about ill-treatment and demands of dowry and T. V. set and other articles, yet none of them has deposed about any specific event, allegation or incident in their examination-in-chief nor any specific reference is found in their statements before the police.
- (g) Evidence of father of deceased Aruna, viz. Dnyandeo is inconsistent and discrepant on several aspects.
- (h) Any specific incident of ill-treatment, cruelty of harassment, save the demand of T.V. set on one of the functions during pregnancy of Aruna is not narrated.
- (i) There are no specific allegations about demand of dowry or any other article emerging from the evidence.

- (j) The witnesses have, in fact, deposed that in their statements before the police, they had not referred to the quarrel between deceased Aruna and her husband Suresh on the day of the incident i.e. on 21.9.1991.
- (k) Any specific allegations have not been made about cruelty, ill-treatment and harassment of Aruna by the accused.
- (l) There is not even any effort to show that despite complaints by and ill-treatment to Aruna, the parties had made attempts for appeasement etc. which conduct does not appear to be normal and natural.
- (m) If all statements contained in the testimonies tendered by the prosecution are considered even without cross examination, bare description of cruelty

and ill- treatment over dowry related demands or otherwise of such nature and extent that thereby Aruna would be driven to commit suicide is not proved.

(n) The result is that the testimonies of P.W. Nos. 1 to 6 do not inspire confidence.

(o) It would thus be unsafe to rely on the evidence in the shape of two letters allegedly written by deceased Aruna to her brother Avinash (PW-2), as the basis for conviction.

10. Thus, on the basis of allegations about the ill-treatment cruelty or harassment which has allegedly led to suicide of Aruna and death of Swapnesh, in the background of aforesaid circumstances and evidence extremely slender, vague and weak in strength, it would be unsafe to hold the accused persons guilty of the offence. Even if it is assumed that there is some substance in the allegations, due to which Aruna has committed suicide, very act of will, will not follow penal

liability as an arithmetic equation. There may be multiple reasons leading to suicide. The prosecution has to bring those within the compass of Section 498-A of I.P.C.

11. In the circumstances, it cannot be said that any other view or result is possible, and also for the reasons recorded in the impugned judgment and order, present case is not a fit case to interfere with and reverse the findings and the judgment and order of acquittal delivered by the learned IInd Additional Sessions Judge and convert the same into conviction.

12. Consequently, appeal fails and is accordingly, dismissed.

(SUNIL P. DESHMUKH, J.)

(A. H. JOSHI, J.)

pnd