

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1075 OF 2007**

The State of Maharashtra
(Through Thane Nagar Police
Station, Thane)

....Appellant
(Orig. Complainant)

V/s.

Mohan Vitthal Chavan
Age – 33 years,
R/o. Central Jail, Jail Police Line,
Room No.31, Thane.

....Respondent
(Orig. Accused)

Ms. Anamika Malhotra, APP for State.
Mr. Shantanu Phanse, Advocate appointed for Respondent.

**CORAM : K.R.SHRIRAM, J.
DATED : 30th APRIL, 2021.**

ORAL JUDGMENT :

1. This is an appeal impugning an order and judgment dated 13th December, 2005 passed by the 3rd Additional Sessions Judge, Thane acquitting the respondent (hereinafter referred as accused) of offence punishable under Section 498-A (*Husband or relative of husband of a woman subjecting her to cruelty*) and 306 (*Abetment of suicide*) of the Indian Penal Code.

2. Accused was married to Jagruti who committed suicide on or about 06/10/2003. The marriage had taken place four years before the incident. The couple also had a son who was 2 1/2 years old. Accused worked as a constable in Thane Jail and was residing with Jagruti in the

police jail quarters. It is prosecution's case that Jagruti was being ill treated by accused and on 06/10/2003 Jagruti unable to bear the harassment, committed suicide. It is alleged that suicide of Jagruti by hanging was communicated to P.W. 2, mother of Jagruti by accused who had also stated to P.W. 2 that the previous night he had quarreled with Jagruti and that he had slapped her.

3. After the incident, information was supplied by accused to police which was recorded as accidental death. An enquiry was conducted by one PSI Sonawane (who was not a witness) and on 08/10/2003 complaint was lodged by one Narayan Jankiram Lohar (P.W. 1) brother of Jagruti. An offence was accordingly registered. Investigation was carried out by PSI Patil (P.W. 6) attached to Thane Nagar Police Station. After recording statements of witnesses, drawing spot panchanama, obtaining postmortem report etc., charge-sheet was filed. Accused pleaded not guilty and claimed to be tried.

4. To bring home the charge, prosecution has examined six witnesses viz., Narayan Jankiram Lohar elder brother of Jagruti as P.W. 1 ; Avantabai Jankiram Lohar, mother of Jagruti as P.W. 2 ; Vasant Gangaram Tharatkar, neighbor of Jagruti as P.W. 3 ; Kamaleshwr Ashok Lohar, maternal cousin brother of Jagruti as P.W. 4 ; Harun Nasarulla Khan, neighbor of Jagruti as P.W. 5 and PSI Krishna Bhau Patil, Investigating Officer as P.W. 6.

5. The fact that it was a suicidal death has not been disputed. After considering the evidence, the Trial Court has acquitted accused on various grounds and I would fully agree with the conclusion arrived at by the Trial Court. I have to also note that as accused was not represented, this court appointed Mr. Shantanu Phanse, an advocate practicing in this court to assist the court on behalf of accused/respondent.

6. The evidence of P.W. 1, brother of Jagruti was that his mother, wife and children visited the house of Jagruti and she mentioned to his mother about the harassment by accused. He has not mentioned about any personal knowledge and his is hear say evidence. Therefore his evidence is not of much value.

7. As regards evidence of P.W. 2 mother of Jagruti, when P.W. 2 visited Jagruti about 15 days before the incident, it seems Jagruti informed P.W. 2 that there were intermittent quarrels between Jagruti and accused but Jagruti did not disclose the cause of such quarrels. P.W. 2 also suggested that Jagruti did not disclose any harassment at the hands of accused which means Jagruti never made any complaint to P.W. 2 regarding any ill treatment at the hands of accused for bringing money or for any other reasons. Even the FIR dated 08/10/2003 also does not mention about any ill treatment or demand of dowry by accused. Though P.W. 2 says when accused informed her about the incident and mentioned to her that on the

day before the incident accused had quarreled with Jagruti and he slapped her, in her cross-examination P.W. 2 says that the quarrel was not something that was serious but was something which a husband and wife would normally have. Therefore, there is no evidence that Jagruti was subjected to any cruelty at the hands of accused.

P.W. 4 who is the maternal cousin of Jagruti in his evidence does not indicate that he noticed during his visits to Jagruti's house that Jagruti was unhappy. Even his statement to the police does not mention about any harassment by accused to Jagruti.

P.W. 5's evidence only indicates that he informed accused that his son was crying and nobody was answering door.

8. Therefore, the Trial Court has rightly concluded that no case has been made out to prove the offence charged under Section 498 A or 306 of the Indian Penal Code.

9. Mr. Phanse relied upon *Inderpal Vs. State of M.P.*¹, *Balasaheb Ganpati Jadhav & Ors. Vs. The State of Maharashtra*² and *Muralidhar Alias Gidda And Another Vs. State of Karnataka*³ in support of his submissions that there was no error in the order of acquittal passed by the Trial Court.

1 (2001) 10 Supreme Court Cases 736

2 2016 ALL MR (Cri) 3964

3 (2014) 5 Supreme Court Cases 730

10. I have perused the impugned judgment, considered the evidence, also heard Ms. Malhotra, learned APP and Mr. Phanse for respondent. I do not find anything palpably wrong, manifestly erroneous or demonstrably unsustainable in the impugned judgment. From the evidence available on record, there is nothing to substantiate the charge leveled against accused.

11. There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. For acquitting accused, the Sessions Court rightly observed that the prosecution had failed to prove its case.

12. In the circumstances, in my view, the opinion of the Trial Court cannot be held to be illegal or improper or contrary to law. The order of acquittal, in my view, need not be interfered with.

13. Appeal dismissed.

14. Mr. Shantanu Phanse was appointed to present case on behalf of unrepresented respondent. He rendered good assistance for rendering this judgment. Mr. Phanse's fees is quantified at Rs.10,000/-. High Court Legal Services Committee to award fees of Mr. Phanse.

(K.R. SHRIRAM, J.)