



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.29 OF 2006

Ranjit alias Raja s/o Sheshrao Gajmal,
Age-29 years, Occu-Driver,
R/o.Dasala, Tal.Sailu,
Dist.Parbhani

-- APPELLANT

VERSUS

The State of Maharashtra

-- RESPONDENT

Mr.S.J.Salunke, Advocate for the appellant.
Mr.S.B.Jadhav, APP for the respondent/State.

(CORAM : SUSHIL M. GHODESWAR, J.)

RESERVED ON : 18 SEPTEMBER 2025
PRONOUNCED ON : 03 OCTOBER 2025

J U D G M E N T :

1. In this appeal against conviction, the appellant has challenged the judgment and order dated 19.11.2005, passed by the learned 1st Ad-hoc Additional Sessions Judge, Parbhani in Sessions case No.40/2004 and praying this Court to acquit him by quashing and setting aside the impugned judgment passed by the learned Trial Court. The appeal is admitted vide order dated 23.01.2006.

2. The case of the prosecution in short, is as under :-

P.W.No.6 Janardhan Narayan Kedari, P.S.O., on the basis of the complaint lodged by one Bhagirath Gajmal, registered the accidental death report (AD) (Exh.41) and handed over the investigation to the Police Head Constable Mr.Sawant. The AD came to be registered on the basis of oral report stating therein that Bhagirath Gajmal, on 22.11.2003 at about 3.00 p.m., heard the noise and therefore went alongwith Pandurang Gajmal and Ramesh Gajmal to the house of the appellant. He found the appellant in burnt condition and smoke was coming from the house of the appellant. Upon going inside the house, he found the wife of Rajabhau alias Ranjit Sheshrao Gajmal namely Meera (deceased) in burnt condition. She was not making any movements and she had died.

3. During the investigation of the aforesaid AD, P.W.No.2 informant lodged the report on 23.11.2003 (Exh.24). In the said report, he has stated that his daughter Meera had married to the appellant 2 years before the incident. In the marriage, they had gifted Rs.65,000/- cash and golden ring of 5 gm. A child is born out of the said wedlock to her, which is 9 months old. He has further stated that

his daughter Meera was maintained properly only for a period of one year by the appellant. Thereafter, appellant started harassing her on account of bringing Rs.20,000/- for household expenses from her parents. At that time, he had paid Rs.20,000/- to his daughter and sent her to matrimonial house. After 2 months, again the appellant i.e. husband of the deceased started beating her on account of bringing Rs.50,000/- from her parents. His daughter Meera thereafter came to his house, but since he was not having the amount to pay, he sent her back to the matrimonial house. P.W.No.2 / informant has also stated in his complaint that the appellant was addicted to liquor and having illicit relations with accused No.1 / Parvati. On 22.11.2003, one Archana Prabhakar Gajmal asked them to come village Dasala immediately. Accordingly, they left for Dasala in a private jeep with relatives and reached village Dasala at 6.00 p.m. They found their daughter Meera dead and in burnt condition. Accordingly, P.W.No.2 has lodged the report.

4. On the basis of the aforesaid report, Crime No.157/2003 was registered with Selu Police Station, Dist. Parbhani for the offence punishable u/s 498(A), 306 r/w 34 of the IPC against the appellant and

one Parvati Suryabhan Khandare/Accused No.1. After carrying out the investigation, the charge sheet came to be filed against the accused persons and since both the accused pleaded not guilty, therefore they came to be tried by the learned Sessions Court. Accordingly, charge was framed at Exh.10 for the offence punishable u/s 498-A and 306 r/w 34 of the IPC against both the accused persons. During the trial, prosecution has examined in all 7 witnesses. After hearing, the learned 1st Ad-hoc Additional Sessions Judge, Parbhani was pleased to pass judgment, thereby acquitting accused No.1 Parvati of the offences u/s 498-A and 306 of the IPC, however convicted the appellant for the offence punishable u/s 498-A, 306 of the IPC and sentenced to suffer imprisonment. Hence, the appellant has approached this Court.

5. On 23.01.2006, this appeal was admitted and his application for suspension of sentence Cri.M.A.No.101/2006 was allowed and his sentence was suspended.

6. Heard the learned Advocate for the appellant and the learned APP

7. The learned Advocate for the appellant has pointed out from the record that on the basis of the depositions and material, no offence either u/s 306 or 498-A is made out against the appellant. He submitted that P.W.No.2 and 3 are the parents of the deceased. They have stated that deceased Meera, after marriage, had been to their house and narrated about the alleged demand of Rs.20,000/- and the same was paid to her. Thereafter, she was sent back to the matrimonial house. Again the appellant had asked for Rs.50,000/- and the said amount was not paid to her and after giving understanding, she was sent back to the house of the appellant. They have also stated that the appellant is having illicit relationship with accused No.1 Parvatibai. The learned Advocate for the appellant submits that on going through the testimonies of the witnesses, the appellant can not be held guilty for the offence punishable u/s 306 or 498-A of the IPC. According to him, for proving offence punishable u/s 306 of the IPC, the prosecution is required to establish that the harassment or harsh behaviour of the appellant meted out to deceased to such an extent that she had no other option than to commit suicide. According to the learned Advocate for the appellant, the prosecution is relying on the evidence of P.W.No.5 Archana Gajmal, who is relative on both the sides, i.e. deceased as well

as the appellant. Her evidence goes to show that she had heard about the illicit relationship between accused Nos. 1 and 2 from the village. Her evidence is hearsay evidence and cannot be considered for establishing the illicit relationship between accused No.1 Parvati Khandare and the appellant and therefore it is hard to believe that because of this illicit relationship between them, the deceased had committed suicide.

8. The learned Advocate Mr.Salunke for the appellant has also submitted that the allegations against the appellant regarding the cruelty, there are no specific allegations against the appellant in the evidence brought before the Court by the prosecution side. The witnesses have not deposed as regards specific instances, events of harassment and cruelty against the appellant. All the witnesses have deposed in general that the appellant has harassed the deceased for bringing money from her parents. He has also submitted that whenever deceased Meera had come to the house of the parents for getting money, she has never complained of any illicit relationship of the appellant and any illtreatment at the hands of appellant. As such, the theory of the prosecution as regards illicit relationship and

harassment at the hands of accused persons cannot be accepted and thus prayed for acquittal of the appellant.

9. Per contra, the learned APP strongly opposed the appeal and submitted that the prosecution has established its case before the learned Trial Court beyond reasonable doubt, and therefore the learned Trial Court has rightly convicted the appellant u/s 498-A and 306 of the IPC, and as such no interference is required in the said judgment and therefore praying for maintaining the said judgment as it is. According to the learned APP, the evidence before the learned Sessions Court was very much corroborative to convict the appellant.

10. The learned APP further submitted that the prosecution has examined P.W.No.1 Rameshchandra Sharma at Exh.17, who is the Medical Officer, Civil Hospital, who has performed the post mortem examination of deceased. As per his report, the deceased had sustained as many as 94% burn injuries and deceased had died due to the same. He further stated that the appellant was also admitted to the hospital for his 20% burn injuries and his medical certificate is at Exh.21. The dead body of the deceased was found in the living room/

bedroom of the house.

11. It reveals from the record that Bhagirath Gajmal was the first person to reach on the spot after getting information from P.W.No.5 Archana Gajmal. However, the prosecution has not examined him. Alongwith him, Pandurang Gajmal and Ramesh Gajmal also reached the spot of incident. They also have not been examined, nor statements of the said witnesses were brought on record by the Investigating Officer.

12. It reveals from the record that the appellant had also sustained burn injuries and he had sustained those burns while saving the life of his wife deceased Meera. It has also been pointed out from the record that the appellant was having a kerosene shop at his house and the appellant is having good financial position, and therefore the case of the prosecution that he was demanding to deceased Meera for bringing money from her parents, cannot be accepted easily. P.W.Nos.2 and 3 have stated that accused harassed deceased for bringing an amount of Rs.20,000/- from them and therefore the deceased had been to their house asking for Rs.20,000/-. But the prosecution has not

established the said fact by adducing concrete evidence to prove the said demand. Since there is no specific allegations as regards demands, no particular dates have been mentioned / stated as regards those instances of demand and harassment, therefore it is very difficult to accept the case of the prosecution on the basis of such evidence.

13. In order to consider the facts to be constituting an illtreatment or harassment as contemplated under section 498-A of the IPC, it is necessary that the witnesses testify the said harassment before the Court in particular manner. In this case, the prosecution witnesses failed to narrate the nature of illtreatment or harassment, due to which the deceased committed suicide, as her last option. All the witnesses of prosecution have maintained silence over the nature of illtreatment and harassment. They also did not complain to police whenever they came to know about such alleged harassment. Testimonies from the parents of deceased does not indicate any persistent harassment. There is no material to prove that the appellant's conduct frustrated the deceased hopes or expectation or same created hostile environment leading her to take extreme step.

In Gurucharan Singh Vs. State of Punjab reported in (2017) 1

SCC 433, the Hon'ble Apex Court held that the proof of willful conduct actuating the woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical is the *sine qua non* for entering a finding of cruelty against the persons charged.

14. The prosecution tried to establish their case on the basis of alleged cruelty. The deceased had committed suicide and the appellant alleged to have abetted the deceased to commit suicide. The law on this point is very much clear that unless and until the accused had extended harassment to such an extent that the deceased had no other option than to commit suicide, only in that case, it can be said that the accused has committed the crime.

15. The prosecution, after examination of the relevant witnesses, virtually failed to bring the sufficient evidence before this Court thereby warranting conviction u/s 498, 306 of the IPC. Thus the impugned judgment of Sessions Court, therefore, is not maintainable being illegal and improper.

16. In view of the above, I pass the following order :-

[a] The appeal is allowed.

[b] The impugned judgment and order dated 19.11.2005 passed by the learned 1st Ad-hoc Additional Sessions Judge, Parbhani in Sessions Case No.40/2004 is hereby quashed and set aside and the appellant is acquitted of the offence punishable u/s 498-A and 306 of the IPC.

[c] Record and proceeding of Sessions Case No.40/2004, received from the District Court, Parbhani, be sent back to the concerned Court.

(SUSHIL M. GHODESWAR, J.)