

State of Maharashtra Vs. Venkat and Others

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Court : Mumbai Aurangabad

Decided On : Jan-28-2016

Judge : M.T. Joshi

Appeal No. : Criminal Appeal No. 414 of 2004

Appellant : State of Maharashtra

Respondent : Venkat and Others

Judgement :

Oral Judgment:

1. Heard both sides.

2. Aggrieved by the acquittal of present respondents from the offences punishable under Section 498-A read with Section 34 and 306 of Indian Penal Code vide judgment and order dated 20th March, 2014 passed by the learned 3rd Adhoc Assistant Sessions Judge, Ambajogai in Sessions Case No.14 of 2001, the State has preferred present appeal.

3. The prosecution case, in short, is as under:-

That, deceased Mahananda was married to present respondent no.1 - Venkat on 1st April, 2000, who was son of brother-in-law (brother of wife) of the complainant PW 1 - Ashruba. In that marriage, dowry of Rs.18,000/- was given to the

respondents. After the marriage, deceased Mahananda started residing at the house of the present respondents at village Nandadi, Tq. Ambajogai, Dist. Beed.

For about five months after the marriage, deceased Mahananda was treated well by the respondents. Thereafter, however, respondent no.1 Venkat, deceased accused Balbhim and respondent no.2 - Kashibai, wife of Balbhim used to make demand of Rs.One Lakh for the purpose of getting a job for the respondent no.1 - Venkat. They used to say that for the purpose of getting a job as Conductor, said amount is required. Over the said demand, they used to physically as well mentally ill-treat deceased Mahananda. They used to provide her insufficient meal and also beat her. In Diwali when the complainant Ashruba took deceased Mahananda to her parental house, she narrated about the ill-treatment.

It is the prosecution case that after Diwali festival, deceased accused Balbhim had come to the house of the complainant to take deceased Mahananda Back to his house. At that time, the complainant was away at his place of posting at Latur. At that time, deceased Mahananda was ill and the mother of the deceased told Balbhim that after offering certain new clothes, she would be sent. However, deceased accused Balbhim told that even clothes will have to be gifted to his son-in-law and his daughter also. He also demanded an amount of Rs.One Lakh for getting a job for his son i.e. Accused no.1 Venkat. Deceased accused Balbhim also told that since deceased Mahananda was his daughter-in-law, he will kill her and cut into pieces and nobody can question him.

In the situation, the neighbors of the complainant namely, Mahadev, Digambar and Sitaram Shinde also tried to give understanding to deceased accused Balbhim. However, Balbhim took deceased Mahananda with him and thereafter, on 5th November, 2000, she found dead in a well. In the situation, the F.I.R. came to be filed by PW 1 -Ashruba on 7th November, 2000 on the basis of which, investigation was carried by the police.

Initially, an accidental death case was registered in which, investigation was carried by PW 11 - Shaikh Nasir, Police Head Constable. Various police officials including PW 8 and PW 11 had conducted investigation in the crime. The statement of the relevant witnesses were recorded. Panchnama of the spot of

occurrence was already recorded in A.D. The post mortem examination notes were collected.

During the investigation, PW 1 - Ashruba produced photocopies of certain letters before the Investigating Officer, purported to have been sent by the deceased Mahananda through post. He also gave natural handwriting of deceased Mahananda. In the witness box, PW 1 -Ashruba produced an original letter at Exhibit 55 along with postal envelope at Exhibit 56.

4. Before the learned Addl. Sessions Judge, in all eleven witnesses were examined. It is not disputed that the deceased has died due to drowning in a well near the village. The issue was, whether, she has met with an accidental death or she has committed suicide.

To prove the allegations of cruelty given to deceased Mahananda during her lifetime, statements of PW 1 - Ashruba, father of deceased, PW 2 -Ashok, son of Ashruba and PW 3 - Savitrabai, mother of deceased were relied. PW 4 - Mahadeo was examined to show that deceased accused Balbhim had taken away deceased Mahananda after Diwali festival in absence of her father PW 1 - Ashruba.

5. The learned Addl. Sessions Judge has appreciated the evidence of these four witnesses. He came to the conclusion that material improvements were made by all these witnesses. Even PW 4 - Mahadeo is found to have thick and cordial relations with the complainant. In the circumstances, learned Addl. Sessions Judge observed that the prosecution case was not proved beyond reasonable doubt. Further, according to the learned Sessions Judge, the prosecution has failed to prove that the letters purportedly were in the handwriting of deceased Mahananda. In that view of the matter, all the respondents/accused were acquitted. Hence, the present appeal.

6. Learned A.P.P. for the appellant - State submitted that the panchnama of spot of occurrence proved by the panch witness would clearly show that the well, wherein dead body of deceased Mahananda was found floating, had steps. The pot meant for cleaning after the nature's call and a pair of footwear were placed by the side of the well. In the circumstances, he argued, it cannot be said that the

deceased might have suddenly fallen in the well. Thus, it would be a case of commission of suicide by placing the pot and footwear by the side of the well.

He further submitted that the statements of the four witnesses were not correctly appreciated by the learned Addl. Sessions Judge. He therefore submitted that the present appeal may be allowed.

7. On the other hand, Mr.Pawar, learned counsel for the respondents supports the reasoning forwarded by the learned Addl. Sessions Judge. He submitted that the learned Addl. Sessions Judge has taken a reasonable and probable view of the material placed before him. Hence, he submitted that no interference in the order of acquittal is warranted.

8. On the basis of this material, following points arise for my determination :-

A] Whether the prosecution has proved that on 6th November, 2000, deceased Mahananda met with suicidal death?

B] Whether the prosecution has proved that during cohabitation of deceased Mahananda with present respondents at village Nandedi, Tq. Ambajogai, Dist. Beed, present respondents in furtherance of their common intention, had subjected deceased Mahananda to cruelty over fulfillment of unlawful demand of Rs.1,00,000/-?

C] Whether the prosecution has further proved that present respondents had abetted commission of the suicide by deceased Mahananda?

My finding to point no.1 is in the affirmative and as to point nos.2 and 3, in the negative. The appeal is, therefore, dismissed for the reasons to follow.

REASONS

9. As to point no.1 :-

Learned A.P.P. has pointed towards the panchnama of spot of occurrence proved by PW 9 -Kalyan Deshmukh, r/o. Nandedi, Tq. Ambajogai i.e. village of the respondents. This witness deposed that in his presence, the spot was inspected

by the Investigating Officer. The well is situated nearby the village. It has steps to enter in the same. A steel pot and a pair of Chappals was found near the well while, the dead body was found in the well. The sketch map of spot of occurrence is proved by him.

If this situation is taken into consideration, then it cannot be said that deceased Mahananda had just slipped in the well and met with the death. Placing of the footwear and steel pot by the side of the well, would indicate that the deceased had jumped in the well. In that view of the matter, it will have to be concluded that the deceased has committed suicide.

10. As to point nos.2 and 3 :The issue, however, would not rest here. The prosecution was required to prove that during cohabitation of the deceased Mahananda with the present respondents, all the respondents had caused cruelty to her, which ultimately resulted in committing suicide by her.

The learned Addl. Sessions Judge has appreciated evidence of the four witnesses, as detailed supra. He has taken into consideration the improvements made by these witnesses by specifically pointing them from paragraph 25 to paragraph 32 of the impugned judgment and all the statements have been categorically catalogued.

11. Besides this, during arguments, it was noted that PW 1 - Ashruba, father of deceased Mahananda, in examination-in-chief, has deposed that after Diwali festival, deceased accused Balbhim had taken deceased Mahananda back on the pretext of dog bite to his wife. This witness further deposed that his wife i.e. PW 3 - Savitrabai narrated that deceased accused Balbhim had demanded an amount of Rs.One Lakh for getting a job for respondent no.1- Venkat. Thus, a hearsay evidence was pressed into service.

Further, though according to the F.I.R., PW 4-Mahadeo had tried to give understanding to deceased accused Balbhim when he insisted for Rs.One Lakh at the time of taking deceased Mahananda back, this witness, however, simply deposed that in the absence of the complainant and in presence of wife of the complainant, deceased accused Balbhim had taken away deceased Mahananda.

The exaggerations in the F.I.R. are therefore, manifest. Even this witness admitted that he had cordial relations with the complainant PW 1 -Ashruba.

12. As regards the letters purported to have been sent by deceased Mahananda in her last days, they were not proved by the prosecution. For the reasons best known to the complainant, he had merely handed over the photocopies of the said letters to the Investigating Officer. It appears that the Investigating Officer did not press for the originals of the letters and has failed to take further steps for verification of the handwriting of the said letters.

13. In that view of the matter, the learned Addl. Sessions Judge has rightly appreciated the material on record and came to the conclusion that the prosecution has not proved its case beyond reasonable doubt and therefore, acquitted all the respondents.

14. In the circumstances, in the present appeal against the order of acquittal, no interference is warranted.

15. In the result, present appeal is hereby dismissed. Bail bonds, if any, of the respondents shall stand cancelled.

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