

MILIND BHAGWANRAO GODSE

V.

STATE OF MAHARASHTRA & ANOTHER

Criminal Appeal No 891 Of 2001

FEBRUARY 12, 2009

(DALVEER BHANDARI AND HARJIT SINGH BEDI, JJ.)

Penal Code, 1860 :

Ss.498A, 306 and 109 r/w s.34 IPC – Dowry harassment – Mental torture – Suicide by wife – Husband convicted and sentenced by trial court – Upheld by High Court – On appeal, Held: The circumstances enumerated in the deceased's letter to her parents and the evidence of PWs lead to a situation where she was virtually left with no option except to take upon extreme step of putting an end to her life – Trial court and High Court correctly evaluated the entire evidence on record and arrived at correct conclusion – Hence no interference called for.

The appellant and his parents were charged with offences punishable under Ss.498A, 306 and 109 r/w S.34 IPC for dowry harassment, causing mental torture to the deceased. Appellant was convicted and sentenced by the trial court; his parents were acquitted. High Court upheld the same. Hence the appeal.

Dismissing the appeal, the Court

HELD: 1. The evidence of P.W.6 (neighbour of the deceased), P.W.7 (sister of the deceased) and P.W.8 (father of the deceased) clearly lead to the only conclusion that this was a case of extreme mental cruelty which was perpetuated from the point of marriage and lasted till the deceased had committed suicide. There cannot be any iota of doubt that the extreme mental cruelty and torture com-

A pelled the deceased to put an end to her life. The appellant was wholly responsible for creating all the circumstances which led the deceased to take an extreme step of putting an end to her life. [Para 22] [46-F, G]

B 2. Exh. 46, the letter written by the deceased to her parents on 9.10.1989 immediately before she had committed suicide, gives graphic description of the number of instances of extreme mental torture, day in and day out. This letter gives the impression that the appellant was deriving sadistic pleasure in causing extreme mental torture to the deceased. He would leave no stone unturned to ensure that the maximum mental torture and agony is caused to the deceased. There is not the slightest doubt that the circumstances which have been enumerated in Exh. 46 and the testimony of P.Ws. 6, 7 and 8 lead to a situation where the deceased virtually was left with no option except to take an extreme step of putting an end to her life. [Para 23] [46-H; 47-A, B]

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E 3. The Additional Sessions Judge and the learned Judge of the High Court correctly evaluated the entire evidence on record and arrived at correct conclusion. No interference is called for. [Para 24] [47-E, D]

F CRIMINALAPPELLATE JURISDICTION : Criminal Appeal No 891 of 2001

From the final Judgment and Order dated 9.3.2001 of the High Court of Judicature at Bombay, Bench at Aurangabad in Criminal Appeal No. 187 of 1991

G U.U. Lalit, Nitin Sangra and Sidhesh Kotwal (for Gaurav Agrawal), with him for the Appellant.

Sushil Karanjkar and Kailash Pandey, (for Ravindra Keshavrao Adsure), for the Respondent.

H The Judgment of the Court was delivered by

DALVEER BHANDARI, J.

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1. This appeal is directed against the judgment of the High Court of Judicature of Bombay, Bench at Aurangabad in Criminal Appeal No. 187 of 1991 dated 09.03.2001. The appellant (original accused no. 1) and his parents (original accused nos. 2 and 3) were alleged to have committed offences punishable under sections 498A, 306 and 109 read with section 34 of the Indian Penal Code (for short 'IPC'). The learned IInd Additional Sessions Judge, Beed convicted the appellant under section 498A IPC to suffer rigorous imprisonment for one year and to pay a fine of Rs.2,500/-, in default whereof to suffer further rigorous imprisonment for six months. The appellant was also convicted under section 306 IPC to suffer rigorous imprisonment for three years and to pay a fine of Rs.5,000/-, in default whereof to suffer further rigorous imprisonment for six months. Original accused nos. 2 and 3 were, however, acquitted by the learned IInd Additional Sessions Judge, Beed.

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2. Brief facts which are necessary to dispose of the appeal are recapitulated as under :

The appellant was married to the deceased Lata on 9.11.1987. The deceased was a highly qualified woman. She had obtained distinction in Masters of Science (M.Sc.). She secured second position in the Marathwada University in the Diploma in Business Management. She had also passed Diploma in Higher Education. She was doing Bachelor of Education (B.Ed.) at the time of commission of the offence. She was serving as a Lecturer in Balbhim College at Beed.

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3. The deceased Lata after marriage resided with the appellant. The appellant was living in a joint family with his parents. It was not a happy marriage from its very inception. There was constant taunting leading to mental cruelty to the deceased by the appellant and his parents.

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4. The deceased visited her parents at Pandharpur in January 1988. She disclosed to her parents that she was constantly

A subjected to humiliation. The deceased again visited her parents in May 1988. She again disclosed to her parents that the appellant and his parents used to subject her to extreme mental cruelty and torture. She complained that the appellant asked her not to spend her salary, otherwise he would divorce her.

B 5. She also disclosed to her parents that the appellant used to tell her that a number of beautiful girls were after him. She also complained that the appellant and her father-in-law used to demand the salary from her and on refusal, both of them used to frequently ask her to leave the house. She further told her
C parents that her mother-in-law dispensed with the services of maid servants and compelled her to do all that domestic work.

6. She again visited at Pandharpur on third occasion for the purpose of delivery in July 1988. She was there from July
D 1988 to October 1988. She delivered a baby boy. The appellant and the deceased took a residential quarter on rent and stayed there for three weeks. However, they vacated the rental premises and started residing separately on the first floor of the ancestral house. The deceased was brought back to the ancestral house against her wishes.

E 7. It is an admitted position that the appellant was a junior lawyer and not settled in practice. He used to constantly demand money from the deceased. The appellant used to give her threats of divorcing her even in case of slight delay in withdrawing money from the bank to be given to the appellant. According to the statements of Vidhya P.W.7 and Vasant P.W.8, sister and father of the deceased respectively, and Exh. 46, it is abundantly clear that the appellant constantly used to give threats of divorce. This led to extreme mental torture to the deceased.

G 8. There was a family function Jawal ceremony (first head-shaving ceremony of child) in August 1989 at the house of the appellant. All guests including the parents and sisters of the deceased were invited for the ceremony. The parents and sisters of the deceased noticed ill treatment meted out by the appellant to the deceased on account of shortage of vegetable. The
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appellant had humiliated and insulted the deceased in presence of all guests and announced that he would take decision to divorce her in that very month.

9. On 9.10.1989 at about 6:15 p.m., Vasant P.W.8, father of the deceased, received a telegram to the effect "Lata burnt seriously. Do not come with Rohit for his insecurity". The telegram was signed by one Dodsay. In response to the telegram, the parents of the deceased rushed to Beed. They reached Beed at 2.15 a.m. on 10.10.1989. They saw the completely burnt dead body of the deceased in the hospital.

10. The deceased, because of constant mental torture caused by the appellant, decided to put an end to her life. On 9.10.1989 at about 2.30 p.m. at Dhondipura, Beed, the deceased committed suicide by setting herself on fire.

11. One unknown boy informed Vidhya P.W.7 that the deceased had visited the post office at 1 p.m. on 9.10.1989. Vidhya P.W.7 went to the post office and made enquiry. It was found that the deceased herself had sent telegrams Exhs. 35 to 37 to her father Vasant P.W.8, to her sister Vidhya P.W.7 and to her parental uncle at Kolhapur. Vasant P.W.8 went to the police station and lodged the first information report Exh. 50 on 10.10.1989 at 4.00 p.m. On the basis of the first information report, Crime No. 313 of 1989 was registered under sections 498A and 306 read with section 34 of the Indian Penal Code.

12. The Investigating Officer prepared inquest panchnamma Exh. 16 of the dead body of the deceased on 10.10.1989. He prepared spot panchnamma Exh. 29. The deceased had committed suicide in the kitchen. The Investigating Officer sent the dead body for autopsy. The autopsy was performed on the dead body of the deceased on 10.10.1989. The deceased had 100% burns. The charge sheet was submitted against the appellant and his parents in the Court of Chief Judicial Magistrate, Beed. The learned Chief Judicial Magistrate, Beed committed the original accused to the Sessions Court, Beed to stand their trial.

A 13. The prosecution examined 11 witnesses in order to prove the guilt of the accused. Sushma P.W.6 is the next-door neighbour. Vidhya P.W.7 and Vasant P.W.8 are the sister and father of the deceased respectively.

B 14. The defence of the appellant is that the deceased was a highly educated woman. She was over ambitious. She wanted all the luxuries of life. However, the appellant was a junior lawyer and not settled in the practice of law. His income was too meager to fulfill the dreams of the deceased. The appellant admitted that he was demanding money from the deceased for the purpose of their maintenance and not for bad vices. As per the appellant, the deceased was frustrated in life because her dreams were not fulfilled and ultimately she had committed suicide.

D 15. In the instant case, the first information report was lodged by Vasant P.W.8 which fully stands corroborated to the prosecution case. In his statement, he stated that the appellant was constantly demanding money from the deceased and he also prohibited the deceased from spending money even from her salary and used to threaten her to divorce her. Vasant P.W.8 further stated in his statement that the appellant used to continuously demand money and in case of delay in payment, he used to scold her. Vasant P.W.8 stated that at the time of Jawal ceremony in 1989, the appellant scolded the deceased because of shortage of vegetable and food in the presence of everyone. F Vasant P.W.8 also stated about letter Exh.46 and identified the writing of the deceased.

16. Exh. 46 is a letter written by the deceased to her parents on 9.10.1989, just before she had committed suicide. The deceased wrote in the letter that she was an unlucky girl. She thought that she would have some moments of happiness, but it was not possible because of the nature of her husband (the appellant herein). She mentioned that on the last day and night, the appellant had quarrelled with her and in the morning the appellant cursed the father of the deceased. She stated that

the appellant had gone to the extent of saying that since she was so proud of the influence of her father, she should live with her father in matrimony and also said many things of that sort. She specifically stated that the appellant had harassed her so much that it would not be possible for her to live with him any more. She further stated in the letter that it is one thing of not earning money and another to frequently dishonour and to give trouble to the deceased and her son Rohit. A B

17. She stated in the letter that the appellant deliberately twisted the leg of Rohit (his small son) and broke his bone. She also stated in the letter that the appellant did so because he had a brother Arvind who was physically handicapped and he wanted Rohit to be like Arvind and also because the deceased loved her son Rohit intensely. She stated in the letter that the appellant had unusual attraction towards other girls, particularly towards deceased's sister Asha, Sushma, Sandhya, sister of Charuhas, wife of Anil Pangrikar. The deceased wrote in the letter that the appellant, in order to torture and mentally harass her, used to say that these girls had good physical figures and looked beautiful. The deceased also stated in the letter that the appellant used to say that there would be a row of girls now for marriage with him. These comments led to severe mental torture. C D E

18. She requested her parents to take care of her minor son Rohit and wanted that there should not be a shadow of the appellant on Rohit. F

19. This letter is indeed very emotional and was written in extreme distressing mental condition. This letter clearly demonstrates that the deceased was so much mentally tortured by the appellant that she had decided to put an end to her life. G

20. The accused persons were tried for offences punishable under sections 498A and 306 IPC. The learned IInd Additional Sessions Judge, Beed relied on the evidence of Sushma P.W.6 (neighbour), Vidhya P.W.7 (sister) and Vasant P.W.8 (father) of the deceased respectively. After careful scrutiny of the H

A entire evidence, the learned IInd Additional Sessions Judge acquitted accused nos. 2 and 3, but convicted accused no. 1 under section 498A IPC and sentenced him to suffer rigorous imprisonment for one year and to pay a fine of Rs.2,500/-, in default of payment to fine to further undergo rigorous imprisonment for six months. The appellant was also convicted under
B section 306 IPC and was sentenced to three years' rigorous imprisonment and was also directed to pay a fine of Rs.5,000/-, in default of which to further undergo rigorous imprisonment for six months.

C 21. The appellant, aggrieved by the judgment of the learned IInd Additional Sessions Judge, Beed, preferred an appeal before the High Court of Bombay at Aurangabad Bench. The High Court correctly analyzed the entire evidence on record and came to a clear finding that the prosecution has established the
D guilt of the appellant beyond reasonable doubt. The appeal filed by the appellant was dismissed and the order of conviction and sentence passed by the Learned IInd Additional Sessions Judge, Beed was confirmed. The appellant, aggrieved by the judgment of the High Court, preferred this appeal.

E 22. The concurrent findings were found against the appellant, however, in the interest of justice, we again carefully examined the entire evidence and documents on record. The evidence of Sushma P.W.6 (neighbour of the deceased), Vidhya P.W.7 (sister of the deceased) and Vasant P.W.8 (father of the
F deceased) clearly lead to the only conclusion that this was a case of extreme mental cruelty which was perpetuated from the point of marriage and lasted till the deceased had committed suicide. There cannot be any iota of doubt that the extreme mental cruelty and torture compelled the deceased to put an end to
G her life. The appellant was wholly responsible for creating all the circumstances which led the deceased to take an extreme step of putting an end to her life.

H 23. Exh. 46, the letter written by the deceased to her parents on 9.10.1989 immediately before she had committed sui-

cide, gives graphic description of the number of instances of extreme mental torture, day in and day out. This letter gives the impression that the appellant was deriving sadistic pleasure in causing extreme mental torture to the deceased. He would leave no stone unturned to ensure that the maximum mental torture and agony is caused to the deceased. We do not find the slightest doubt that the circumstances which have been enumerated in Exh. 46 and the testimony of P.Ws. 6, 7 and 8 lead to a situation where the deceased virtually was left with no option except to take an extreme step of putting an end to her life.

24. In our considered view, the learned IInd Additional Sessions Judge and the learned Judge of the High Court correctly evaluated the entire evidence on record and arrived at correct conclusion. No interference is called for. The appeal being devoid of any merit is accordingly dismissed.

25. Consequently, the bail bond of the appellant are cancelled. The appellant is directed to surrender forthwith to serve out the remaining sentence.

G.N.

Appeal dismissed.