



Prasad

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 618 OF 1998**

<p>Hanumant Rambhau Chavan, Age -about 30 years, Occupation- Labourer, Residing at Alandi, Tal. Khed, District – Pune. (At present in Jail)</p>	}	...Appellant
~ versus ~		
<p>State of Maharashtra & Ors</p>	}	...Respondents

APPEARANCES

For the Appellant	Ms. Sufiya Siddiqui a/w Prerna Mehta, Hitesh Phulwani and Ajay Talreja.
For The Respondent-State.	Mr. C.D. Mali, APP

CORAM : R. M. JOSHI, J.

RESERVED ON : 9TH JANUARY 2026.

PRONOUNCED ON : 21ST JANUARY 2026

JUDGMENT:

1. This Appeal takes exception to the Judgment and Order dated 4th July 1998, passed in Session Case No. 326 of 1994, whereby the Appellant, i.e., original Accused No. 1, came to be convicted for the offences, punishable under section 306, and 498A



of Indian Penal Code, for which Appellant is sentenced to suffer five years imprisonment, and three years, respectively, with fine and default sentence.

2. It is a case of the prosecution that Prabhakar, informant, brother of deceased, lodged report with the police with regard to the suicidal death of his sister, Mangal . It is his contention that his sister, was married to the Appellant on 29th December 1991. Initially, she was staying at Village Wadaj with her husband, i.e., Appellant/Accused No. 1 and mother-in-law, original Accused No. 2. She said to have lived cordial married life for a period of seven to eight months. Thereafter, accused persons started harassing her on the ground that she is not able to do household work properly, and that her husband used to harass and beat her by suspecting her character. Whenever she used to come to the parental home , she used to complain about the harassment caused by the accused persons to her brother and mother. Prior to the two days' of the incident, she went to her parental home, and then also complained about the ill treatment at the hands of the Accused. She was not ready to return to the matrimonial home. However, her husband came and fetched her back. On 15th May 1994, informant received



message that Mangal is admitted in Sassoon hospital at Pune. He, along with the other family members went to the hospital and found Mangal dead. She died on account of receiving burn injuries. Informant, therefore, lodged a report with the police claiming she being harassed and ill treated by the accused, and therefore, she having committed suicide. Office came to be registered with Chakan Police Station while Crime No. 49 of 1994. During investigation, the Spot Panchnama was prepared in the presence of Panch Witnesses. The dead body was sent for postmortem. After receipt of the PM notes, the same were included in the investigation papers. Investigating Officer recorded statements of witnesses, and on completion of the investigation, chargesheet came to be filed before the competent court. On committal, charge was framed against them at Exhibit-4. As the accused persons abjured the charge, they were tried. The prosecution led evidence of four witnesses, and placed reliance on documentary evidence in order to prove the guilt of the accused. Prosecution examined following witnesses.

- i. Prabhakar Shankar Gayake. Exhibit-11.
- ii. Kamlabai Shankar Gayake. Exhibit-14.
- iii. Ashok Babanrao Umarge. Exhibit-15.



iv. Vilas Manikarao Jadhav. Exhibit-17.

3. Learned Trial Court, on assessment of the evidence led by the prosecution, reached to the conclusion that the charge framed against Accused No. 2, i.e., mother-in-law of the deceased has not been proved, and hence, recorded acquittal in her favour. The prosecution has not challenged the said Judgment and Order of acquittal of Accused No. 2. The Trial Court, however, convicted Appellant/Accused No. 1, i.e., husband of the deceased for both charges. Hence, this appeal.

4. Learned counsel for the Appellant submits that the Trial Court committed error in not appreciating the evidence on the record in proper perspective. It is a submission that on the basis of similar allegations, charges were framed against both active persons, and since Accused No. 2 is acquitted, there remains no reason or justification for conviction of Accused No. 1/Appellant herein. It is his submission that the prosecution, at the outset, must prove that the deceased died, a suicidal death, and that it was not accident. It is his submission that, on the basis of evidence on record, it cannot be said that deceased committed suicide, and the possibility of accidental death of the deceased is not ruled out. He



further argued that there are material inconsistencies in the statements of witnesses led by the prosecution, more particularly, evidence of Witness No. 1, i.e., brother of the deceased, and her mother, PW2. It is his submission that the prosecution has failed to examine any independent witness, such as neighbours though available, in order to prove the alleged harassment caused to the deceased by the Appellant. In this regard, attention of the court is drawn to the cross-examination of the Investigating Officer who accepts the fact of not recording statement of neighbors till 16th May 1994. It is his further submission that, in any case, evidence of the brother and mother of the deceased, they being interested witnesses, is not sufficient to hold that any harassment was caused to the deceased by the Appellant. In this regard, it is his submission that these witnesses have not seen harassment so caused to the deceased by the Appellant. It is submitted that the evidence of these witnesses is hearsay in nature and, hence, cannot become a ground for conviction of the Accused. He argued that the Trial Court has erred in placing reliance on the letter purportedly written by the deceased (Exhibit-12) when the said letter has not been sent to the handwriting expert for opinion with admitted handwriting and signature of the deceased. He thus argued that, in



absence of proof of the said letter being written by the deceased, the conviction cannot be based upon the same. It is further argued that Investigating Officer has accepted in his evidence that at the time of the filing of the report of the incident, no such letter was produced by the informant. It is his further submission that there is no evidence led before the Trial Court in order to show how the said letter came to be seized and became part of the investigation papers. Without prejudice to his contention that the postcard, allegedly seen by the deceased, has not been proved, he submits that, even in the said postcard, the writings therein do not indicate any specific allegation against the Appellant/Accused of he beating or causing harassment to the deceased. Thus it is submission that in any case, the said evidence is not enough to convict the Appellant/Accused. According to him, there is admittedly no allegation against the Appellant of he demanding any dowry from the deceased or from her parents. It is his submission that, in any case, there is no proximity between the alleged harassment of the deceased and the alleged act committed by her of suicide. Learned counsel took a lot of efforts and pains to convince the Court that this is a case of acquittal of Appellant. He placed reliance on following Judgments:



- (a) *Abhinav Mohan Delkar vs State of Maharashtra & Ors*¹
- (b) *Manikandan vs State by the Inspector of Police*,²
- (c) *Balka Singh & Ors vs The State of Punjab*,³
- (d) *Mahendran VS State of Tamil Nadu with Ravi alias Gopu & Ors vs State represented by the Deputy Superintendent of Police*⁴
- (e) *Dalip Singh & Ors vs State of Punjab*,⁵
- (f) *Govind Raj vs State (NCT of Delhi)*,⁶
- (g) *Raju alias Balchandran & Ors vs State of Tamil Nadu*,⁷

5. He further drew attention of this Court, to the Judgment of the Hon'ble Supreme Court in the case of *Abhinav Dailkar vs State of Maharashtra* (Supra). He drew attention of the Court to paragraph 15 of the said Judgment in order to argue that unless there is any proximity to the time of occurrence of the incident and alleged acts of the Accused, the conviction in terms of Section 306 of IPC is not sustainable. On these amongst other submissions, he seeks interference in the impugned Judgment and Order and acquittal of the Accused.

1 2025 SCC OnLine SC 1725.

2 Criminal Appeal No. 1609 of 2011 with Criminal Appeal No. 407 of 2019, dated 5th April 2024.

3 (1975) 4 SCCA511.

4 (2019) 5 SCC 67.

5 (1953) 2 SCC 36.

6 2019 SCC OnLine Del 7052 : (2019) 257 DLT 633 (DB) : (2100) 174 DRJ 18.

7 (2012) 12 SCC 701.



6. On the other hand, learned APP supported the impugned Judgment and Order by contending that the prosecution has proved the guilt of the Accused beyond reasonable doubt. It is his submission that the number of examination of witnesses is not relevant for the proof of any fact. It is his submission that there is no inimical terms between the parties in order to PW1, brother and PW2, mother of the deceased, to depose against the Accused/Appellant. It is his further submission by drawing attention of the Court to the evidence on record, that the evidence of the witnesses is consistent and supported by the writing of the deceased informing that the deceased was harassed by the husband.

7. Learned APP has drawn attention of the Court to the Spot Panchanama which, according to him, indicates that the possibility of accidental burns being sustained by the deceased is ruled out. In this regard, he referred to the findings recorded by the learned Trial Court, which, according to him, are consistent with the material evidence of record, and requiring no interference therein. Thus, it is argued that the prosecution, since, has succeeded, in proving the charge against the present Appellant, no interference is



called in the impugned Judgment and Order.

8. It is not in dispute that deceased Mangal got married with Appellant/Accused 29th December 1991 and that she died on 16th of May 1994, after having sustained burn injuries on 15th May 1994, at about 11:30 pm. No doubt, the burden would be on the prosecution, to prove at first instance that the deceased died suicidal death. It is, however, pertinent to note that, in case of suicide, in general, and in particular having regard to the facts of the present case, there cannot be any direct evidence indicating that the deceased self-immolated. The prosecution will have to prove the cause of the burn injuries to the deceased on circumstantial evidence. In order to prove the same, prosecution places reliance on postmortem report, which indicate that the deceased had sustained 97% burn injuries. Apart from this, evidence of Ashok Umarge, Exhibit-15, PW3, is led by the prosecution, in whose presence these Spot Panchanama was prepared. This witness, in his testimony on oath, before the Trial Court states about the situation of the spot, so also, the articles seized therefrom. In the cross-examination, it has come on record that the kerosene was found spread in the room. Similarly, can



filled with kerosene, so also, there was a utensil, in which kerosene was found and match stick and pieces of burnt saree were seized from the spot. Thus, Spot Panchanama Exhibit-16 is duly proved by the prosecution through this witness. Nothing has been brought on the record by way of cross-examination in order to discard his testimony. Perusal of the said evidence indicates that the spot at which the incident has occurred, kerosene was found spilled over the room. Apart from this, in the Spot Panchanama, there is nothing to indicate that the stove, which was there in the kitchen platform, has bursted or flared up. Apart from the kerosene in the can, there was kerosene found in another vessel. In case of the accidental burns caused to the deceased, there was no reason for the kerosene being found spilled all over the flooring in the room. The circumstantial evidence, which is on the record, clearly indicates that deceased poured kerosene on her person and, thereafter, lit herself, resulting into causing of 97% burns to her. The learned Trial Court has also held accordingly. On the basis of evidence on record, this Court has no hesitation to hold that the death of the deceased is suicidal one and not accidental.

9. At this stage, it would be relevant to take note of the



provision of Section 113A of Indian Evidence Act, which reads thus:

“113A. Presumption as to abetment of suicide by a married woman.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation. -- For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).”

10. As per the said provision, when it is shown that a woman had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of the husband had subjected her to cruelty, the Court may presume having regard to all other circumstances of the case that such suicide has been abated by her husband or relative of the husband. Having regard to this provision, now it needs to be seen as to whether the prosecution has proved any cruelty being caused by the Appellant to the deceased.



11. Prosecution has examined two witnesses in order to show that prior to the death, deceased was subjected to the cruel treatment at the hands of the accused persons. PW1 is brother of the deceased, who categorically states about the deceased living seven to eight months cordial married life with her husband. It is thereafter, whenever she used to visit the parental home, complained about the harassment caused by the Appellant and her mother-in-law for not performing household work properly, and also by suspecting her fidelity. She used to tell brother and mother that her husband beats her. This witness clearly states about he advising husband of deceased not to harass and beat her. He deposes about the incident, which was narrated by the deceased to him, when she visited his house prior to two to three days of the occurrence of the incident.

12. He also relied upon a postcard sent by the deceased (Exhibit-12), which, according to him, indicates that the deceased was being harassed by the husband. He categorically states about thereafter having asked the husband of the deceased not to cause harassment to her. In the cross-examination of this witness, though it is suggested that the letter was not received from the deceased,



there is no specific suggestion to the effect that the handwriting or the signature on Exhibit-12 does not belong to the deceased. It is pertinent to note that, even in the cross-examination of the investigating officer, though it is suggested and it is accepted by the Investigating Officer, that at the time of lodging of the report, such letter was not produced by the informant to the police, however, there is no suggestion to the Investigating Officer with regard to the planting of the said evidence. Once the defence does not dispute the handwriting and signature of the deceased on the letter in question, and the same is found to have received through Postal Department, as rightly held by the learned Trial Court, that there is no reason to disbelieve that deceased had sent the said letter to her brother. In a given case, there could be doubt about any chit being left behind by deceased to in a given case to say that the same is planted. The letter in question (Exhibit-12) is received through Postal Department with stamp thereon. In that case, in absence of specific case made out of fabrication of letter and its planting, the Court would not be justified in keeping the same out of consideration. Now coming to the contents of the said letter, though it is sought to be argued on behalf of the counsel for the Appellant, that in the said letter, she does not name anyone



particularly to have caused harassment to her. However, the contents of the said letter are self-explanatory. It would be relevant to reproduce the contents of the said letter, which read thus:

तिर्थस्प आईच्या सेवेस आपली मुलगी मंगलाचा नमस्कार. पत्रास कारण की मी आळंदी आले इकडचे वातावरण बीघडलेले आहे. दादा कारतिकेला येणे एखाद्यावेळेस मी येईल तिकडे मला बरे नाही माझी पाठण सुजली आहे व कंबरही दुखते. दादा मला दिवाळी ठेवा मला खायला मिळाली नाही. दादा मला आसे वाटते विजया दिदीसारखी माझी ही तीच आवथा होणार. आनल्यापासुन मारहान चालु आहे. दरेकर ताईला नमस्कार सांगा. भालेराव काकांना सांगा कार्तिकीला येणे. आई गुडग्याला औ"धे घेण्यासाठी काकुन बरोबर जाणे. गणेश वेळ आसेन तर दादाला घर माहित नाही घेवुन येणे. कार्तिकीला जास्त लिहित नाही. दिपुला गोड गोड पापा दिपुला जिव लावणे व लक्ष ठेवणे.

सगळे लिहिता येत नाही. आपली खुशाली कळवणे. पत्राचे उत्तर देणे.

कळावी आपली बहीण

सौ. मंगला चव्हाण

13. The tenor of the letter is clear to indicate that she was harassed by her husband. This becomes more important in view of the fact that Accused No. 2, i.e., mother-in-law of the deceased was not residing with her at the relevant point of time. It is only husband of the deceased and deceased were staying along with their child. Thus, this Court finds no substance in the contention of the counsel for the Appellant, that since the name of the Accused No. 1, i.e., Appellant herein is not mentioned in the said letter, it is



to be held that there is no allegation against the Accused. The said letter clearly shows that the deceased was not only harassed, verbally, but also was abused physically. She makes a mention about the same in the said letter. Apart from this, the evidence of PW1 clearly indicates that even prior to two to three days of the occurrence of the incident, she had been to the parental home and refused to go back to the matrimonial home. It is at that time, the Accused came and fetched her back. These facts clearly indicate that just before the occurrence of the incident of suicide committed by the deceased, she was harassed and abused and beaten by the Accused/Appellant herein. Thus, there is proximity in the act on the part of Accused of causing harassment to deceased and she committing suicide.

14. The prosecution, therefore, has proved by leading cogent evidence that deceased Mangal committed suicide within a period of seven years from the date of her marriage and that her husband had subjected her to cruelty. This Court, therefore, would be justified in presuming by invoking Section 113A of the Evidence Act that such suicide has been abetted by her husband. Section 107 of the Penal Code indicates that a person is said to have abetted



the doing of a thing, who instigate any person to do that thing or intentionally aids or by any act or omission, the doing of that thing. The prosecution was able to prove that the deceased was subjected to physical and mental cruelty by her husband, which has driven her to commit suicide. In view of the presumption under Section 113A of the Evidence Act, the burden would be on the defence to rebut the said presumption. Neither by way of cross-examination, nor in the explanation while recording statement under section 313 of CRPC, or by leading any evidence, the defence has been able to discharge the same. Needless to say that such onus would not be by way of a strict proof, however, the defence will have to rebut the said presumption by leading evidence on probability. Meaning thereby, the defence will have to show as to what would be the probable reason for the deceased to commit suicide. There is absolutely nothing on record to indicate that the deceased has committed suicide on account of any other reason, but for the cruelty which was meted out to her by the Accused/Appellant. It is necessary to note that deceased had a girl child and in spite of the said fact, she decided to end her life. This also goes to show that she was subjected to such cruelty that left her with no alternative, but the commit suicide. This Court,



therefore, finds no justification in disturbing the findings recorded by the learned Trial Court with regard to the deceased committing suicide, owing to the cruelty meted out to her by the Appellant/Accuse.

15. It would be relevant to take note of provision of Section 306 and 498A of IPC, which read thus:

“306. Abetment of suicide.—

If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

498A. Husband or relative of husband of a woman subjecting her to cruelty.—

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”



16. A bare perusal of these provisions, clearly indicate that the deceased was subjected to cruelty by the Appellant/Accused, which has led her to commit suicide. Learned counsel for the Appellant has drawn attention of this Court to the Judgment of the Hon'ble Supreme Court in case of *Abinav Mohan Dilkar* (Supra). The Hon'ble Apex Court, in the same Judgment, has held as under:

“15. *Pawan Kumar v. State of Himachal Pradesh* was a case of elopement which resulted in a criminal prosecution against the boy, later acquitted on the girl's testimony in his favour. The boy continued to harass the girl, holding her responsible for the criminal proceeding initiated and even threatened to kidnap her; which proximate threat led to the girl setting herself ablaze. A dying declaration in the form of a letter, pinned the responsibility of her death on the accused. While upholding the (1994) 1 SCC 73 (2017) 7 SCC 780 Criminal Appeal Nos. 2177-85 of 2024 conviction entered into by the High Court reversing the acquittal by the Trial Court, this Court held so on the scope of the words 'abetment' and 'instigate':

“43. Keeping in view the aforesaid legal position, we are required to address whether there has been abetment in committing suicide. Be it clearly stated that mere allegation of harassment without any positive action in proximity to the time of occurrence on the part of the accused that led a person to commit suicide, a conviction in terms of Section 306 IPC is not sustainable. A casual remark that is likely to cause harassment in



ordinary course of things will not come within the purview of instigation. A mere reprimand or a word in a fit of anger will not earn the status of abetment. There has to be positive action that creates a situation for the victim to put an end to life.

44. In the instant case, the accused had by his acts and by his continuous course of conduct created such a situation as a consequence of which the deceased was left with no other option except to commit suicide. The active acts of the accused have led the deceased to put an end to her life. That apart, we do not find any material on record which compels the Court to conclude that the victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged. On the other hand, the accused has played active role in tarnishing the self-esteem and self-respect of the victim which drove the victim girl to commit suicide. The cruelty meted out to her has, in fact, induced her to extinguish her life spark.” Criminal Appeal Nos. 2177-85 of 2024. Here again the live link, to the just prior threat was emphasised while also noticing the fact that a young girl living in a village setting, also belonging to the poor strata of society, was threatened and teased constantly, resulting in her resort to the extreme step. The accused would have known that his acts would lead to the drastic consequence.

16. *Amalendu Pal vs. State of West Bengal*⁸ also held:

8 (2010) 1 SCC 707.



“Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.”

17. *S.S.Chheena v. Vijay Kumar Mahajan*⁹ emphasised the requirement of a positive act on the part of the accused to instigate or aid in committing suicide. Looking at Section 306, it was held so:

“... in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.”

17. There cannot be any dispute made with regard to the proposition of law, settled by the Hon’ble Supreme Court holding, that mere allegations of harassment, without any positive action, in proximity to the type of occurrence on the part of the accused that led to a person to commit suicide, a conviction under Section 306 IPC is not sustainable. The facts of this case in hand, however, totally, differ. As observed hereinabove, on the basis of evidence on record, that the deceased was subjected to the cruelty, since substantial period of time, so also, she was subjected to the cruelty

9 (2010) 12 SCC 190.



just before the act of commission of suicide by her. The said cruelty was not only verbal, but also physical. This Court finds no substance in the contention of counsel for the Appellant that in the PM notes, no injuries are seen on the person of the deceased. It is pertinent to note that, prior to about 2 to 3 days of the occurrence of the incident, the deceased had been to her brother, and complained about the harassment caused by the Accused/Appellant. In such circumstances, it would not be possible that any injuries on her person could be seen during the postmortem of the deceased. In respectful view of this Court, the Judgment cited of the Hon'ble Supreme Court would not apply to the present case for the material difference in the facts involved in both cases.

18. As a result of the above discussion, it must be held that the prosecution has conclusively and beyond reasonable doubt proved that the deceased was subjected to the cruel treatment by the Appellant-husband, and on account of the same, she committed suicide. Thus, the Appellant has abetted the act of commission of suicide by the deceased, which makes him liable for the offences punishable under section 306 and 498A of IPC.



19. In view of the said findings, there is no justification in causing interference as in the Judgment and Order of the learned Trial Court recording conviction of Accused.

20. Heard learned APP so also learned counsel for the Appellant on sentence.

21. Considering the nature of offence and since wife of Appellant lost her life due to harassment / ill-treatment caused by him, this is not a fit case to extend benefits of probation of offenders act to the Appellant.

22. Having regard to the fact that the incident has occurred as back as in the year 1994, so also having regard to the present age of the Appellant, it would be in the interest of justice that he is sentenced to suffer one year rigorous imprisonment instead of seven years with fine as directed by the Trial Court. Hence, following order.

ORDER

- (i) The Appeal stands partly allowed.
- (ii) Judgment and order of conviction of the stands confirmed.



(iii) The substantive sentence imposed against the Appellant, however is modified.

(iv) The appellant to suffer one year of rigorous imprisonment.

(v) Rest of the order passed by the Trial Court to remain unchanged.

23. A copy of this order be sent to the Trial Court. Trial Court to take steps to ensure that Appellant undergoes above sentence.

(R. M. JOSHI, J.)