

(2011) 01 BOM CK 0069
In the Bombay High Court
Case No : Criminal Appeal No. 68 of 1999

Angad Mane, Rajendra Mane and Malanbai Mane	APPELLANT
Vs	
The State of Maharashtra	RESPONDENT

Date of Decision : 14-01-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 209, 235, 313
Penal Code, 1860 (IPC) — Section 302, 304, 304B, 306, 319

Citation : (2011) 01 BOM CK 0069

Hon'ble Judges : S.S. Shinde, J

Bench : Single Bench

Advocate : Sadhana S. Jadhav, holding for B.R. Sontakke Patil, for the Appellant; S.G. Nandedkar, Assistant Public Prosecutor, for the Respondent

Judgement

S.S. Shinde, J.—This appeal is filed challenging the judgment and order dated 12.02.1999 passed by the I Ind Additional Sessions Judge, Osmanabad in Sessions Case No. 110/1995, thereby convicting the Appellant Nos. 1 to 3 for the offence punishable Under Sections 498A, of the I. P. Code and further convicting the Appellant No. 1 for the offence punishable Under Sections 304II of the I. P. Code.

2. Brief facts of the prosecution case are as under:

Deceased Chabu was the daughter of the complainant Vinayak Argade r/o Katri, Tq. Tuljapur. Her marriage was performed with accused No. 1 Angad four years before the incident. She cohabited with him at village Gaudgaon, Tq. 4/Nandu and accused No. 5/Ankush are his brothers. The matrimony of the deceased Chabu was peaceful for initial 21/2years. During this period she begotten a son from accused No. 1 Angad. Thereafter, the accused persons started ill-treating the deceased Chabu for the demand of half tola gold, cloths in token of karnidharni. They also wanted that her father should arrange a programme of GharGhusni and to honour them by offering cloths. Deceased Chabu disclosed this fact to her parents. Therefore, at the time of panchami of the last year of her

death the complainant arranged such programme and offered cloths to the accused persons by calling them to his village. He also offered them half tola gold ring. Thereafter also deceased Chabu disclosed him about illtreatment for the reason of karni -dharni. She disclosed that accused again wanted half tola gold, cloths etc. and they were assaulting her for that reason. She also disclosed that accused did not provide her food, coconut oil, soap and other things of daily need. At the time of panchami 1994 the complainant brought deceased Chabu to his house and she disclosed him that accused persons demanded half tola gold ring and threatened that if she did not bring it, it would be difficult for her to live. The complainant convinced her and sent for cohabitation.

3. On 13.10.1994 at about 2.30 p.m. the accused No. 2 Rajendra went to complainant's house and told that she was not feeling well. The complainant went to Gaudgaon at about 5.00 p.m. to see the deceased Chabu and saw that she was rolling in the cattle shed due to pains and not able to speak. The complainant asked the accused as to why she was not taken to hospital but they pretended that the hospital was closed. Then complainant started taking her to the hospital in the bullock cart but she expired on the way. The complainant sent her dead body to Gaudgaon and he himself went away to Katri for collecting his kinsmen. He returned to Gaudgaon in the evening. Thereafter, he lodged complaint in the police station (Exhibit 39). Crime No. 105/1994 was registered and PSI Mukeri started the investigation.

4. He went on the spot and prepared panchanama (Exh. 41). Then he prepared inquest panchanama of the dead body of deceased Chabu (Exh. 44) and sent it for postmortem. The postmortem was conducted by medical Officer Dr. Vyavahare on 14.10.1994 (Exh. 36). The viscera was preserved and it was sent to the Chemical Analyser for analysis. PSI Mukeri seized the cloths of the deceased after postmortem (Exh. 42). He recorded the statements of the witnesses from time to time. He received C.A. report (Exh. 49). He arrested the accused Nos. 1 to 5 on 14.10.1994 and accused No. 6 on 25.10.1994. After completing the investigation he submitted the charge sheet against the accused in the court of the Chief Judicial Magistrate, Osmanabad on 25.05.1995 which was numbered as R.C.C. No. 211/1995.

5. The offence Under Sections 306, 304B of I. P. Code was exclusively triable by the court of Sessions, hence the learned Chief Judicial Magistrate committed the case of the accused to the Court of Sessions vide order below Exhibit 1 in R.C.C. No. 211/1995 passed u/s 209 of Code of Criminal Procedure. After committal of the case to this Court and on the basis of the application moved by the learned APP (Exh. 33), the learned Trial Court framed charge against the accused Nos. 1 to 6 Under Sections 498A, 306, 304B and alternatively Under Sections 302 r/w Section 34 of the Indian Penal Code vide Exhibit 21. It was read over and explained to the accused in vernacular, to which they pleaded not guilty vide Exhibits 22 to 27. They have taken the defence of total denial. According to them they never illtreated deceased Chabu nor demanded anything from her. They

contended that on the date of incident she was suffering pains in her abdomen and therefore she was rolling on hard ground. According to them she herself dashed her person on the hard and rough ground thereby she sustained injury to her abdomen. They have also contended that they were taking her to the hospital but she expired on the way. Lastly they claimed that her death was accidental and they are not responsible for the same.

6. The learned I Ind Additional Sessions Judge, Osmanabad after framing necessary points for determination and after recording the evidence and after hearing rival submissions, convicted the accused No. 1/Angad Rajendra Mane, accused No. 2/Rajendra Ganpat Mane and accused No. 6 Malanbai W/o Rajendra Mane wife of accused No. 2 for the offences punishable Under Sections 498A r/w Section 34 of the Indian Penal Code and each of them were sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs. 1,000/- in default R.I. for two months u/s 498A of the Indian Penal Code. The accused No. 1 was further convicted of the offence punishable Under Sections 304II of the Indian Penal Code Under Sections 235 of the Code of Criminal Procedure. He was sentenced to suffer R.I. for five years and to pay fine of Rs. 3,000/- in default R.I. for three months u/s 304II of the I.P. Code.

7. However, the Trial Court acquitted the accused Nos. 3 to 5 for the offences punishable Under Sections 498A of the Indian Penal Code and all the accused Nos. 1 to 6 are acquitted for the offences punishable Under Sections 306, 304/302 r/w Section 34 of the Indian Penal Code.

8. Being aggrieved by the impugned judgment and order passed by the I Ind Additional Sessions Judge, Osmanabad, the Appellants herein have preferred this appeal. During the pendency of this appeal, the Appellant No. 2/Rajendra Ganpat Mane died on 22nd November, 2007 and to that effect certificate from the Gram Panchayat Office Gaudgaon, Dist. Osmanabad has been placed on record. The said position is not disputed by either of the parties. Therefore, so far present appeal to the extent of Appellant No. 2 stands abated.

9. The counsel appearing for the Appellant relying on written submission argued that, in view of the medical evidence i. e. the deposition of P.W. 1, and the communication, Exh. 37, there is no positive, cogent and convincing evidence to conclude that Chhabubai has died a homicidal death. The P.W. 5 the Investigating Officer, Rasul Mukeri has categorically stated that, "It was not transpired in the investigation that deceased was assaulted before her death". That, the Investigating Officer has not recorded the statement of the neighbours. Hence, there is no evidence to show that the Appellant No. 1, had assaulted the deceased. Hence the conviction recorded Under Sections 304II, has resulted into grave miscarriage of justice.

10. The counsel appearing for the Appellants further submitted that, on the point of allegations Under Sections 498A, it needs to be appreciated that the allegations were against six persons. The allegations are omnibus in nature.

According to P.W.3 Lochanbai mother of deceased it is alleged that, "that the accused Nos. 2 to 6 were instigating accused No. 1 to assault the deceased". Therefore, the case of the accused Nos. 2 to 6 should have been dealt in the same manner. Original accused Nos. 3, 4 and 5 have been acquitted and, therefore, the accused No. 6 i. e. Appellant No. 3/Malanbai also deserves to be acquitted of the said charge. No specific role has been attributed to her. P.W.2 also has made an omnibus allegations that the accused No. 1, and his parents were harassing her. The nature of harassment has not been stated by either P.W.2 or P.W.3 and, therefore, the conviction Under Sections 498A of I. P. Code is unsustainable in the eyes of law.

11. The learned counsel appearing for appellants further submitted that, harassment as contemplated u/s 498A of I.P. Code is harassment with a view to coerce a woman to meet any unlawful demand for any property or valuable security, or on account of failure by her to meet such demand. That the accused are acquitted of charge u/s 304B and Section 306 of I. P. C. In the event of the motive for harassment being eliminated then there remains no reason for harassing Chhabubai. The prosecution witnesses have not assigned any other reason for harassment. Therefore, the appellant No. 3, deserves to be acquitted of the charge u/s 498A of the I. P. Code. She further submitted that, five months prior to the death of Chhabubai there was no communication between her parents and Chhabubai. P.W.2 has stated that 8 to 15 days after Panchami, he had offered cloths to the accused and thereafter Chhabubai had not come to her parents house. P.W.2 has stated that 4 to 8 days prior to Panchami, they visited her house and not thereafter. It is stated that P.W.2, was annoyed because of death of Chhabubai. Hence prosecution has failed to prove the offences with which they are charged.

12. The counsel appearing for Appellants further submitted that, assuming that Chhabubai was assaulted, it can only be said that the assault is one which is covered Under Sections 319 of I. P. C., and no knowledge can be attributed to the accused of causing death, and therefore, the offence would fall Under Sections 323 of I. P. Code, where the punishment may extent to 1 year, or with fine which may extent to Rs. 1,000/.In the absence of positive evidence, it cannot be assumed that Chhabubai was assaulted or illtreated. She had not so disclosed to her father just before her death either by words or by gesture. The counsel appearing for Appellants, therefore, prayed for allowing the appeal.

13. The learned Additional Public Prosecutor invited my attention to the contents of the complaint and also deposition of the complainant and his wife and also the deposition of other witnesses including the medical officer. The learned Additional Public Prosecutor submitted that, the act of the Appellants/accused has been stated by the complainant which is supported by his wife and there is convincing medical evidence which leads to only conclusion that the Appellants are responsible for the death of the deceased. The learned Assistant Public Prosecutor invited my attention to the judgment and order of the Sessions Court

and submitted that, each and every aspect has been considered by the Trial Court and reasonable and possible view has been taken. Therefore, no interference is warranted in the appeal.

14. I have given due consideration to the arguments advanced by the learned Counsel for the parties. I have also perused the evidence made available. Since the Trial Court has elaborately dealt with all the aspects of the matter, I feel it appropriate not to repeat the findings recorded by the Sessions Court. The first contention of the Appellants that, there is no positive, cogent and convincing evidence to conclude that, Chhabubai died a homicidal death is required to be rejected in the light of the medical evidence. The evidence of the medical officer Dr. Vyavahare shows that he conducted postmortem on the dead body of the deceased on 14.10.1994 and he found following injuries on the person of the deceased.

1. Abrasion above suprasternal notch oblique of size 1 c 1/4 cm.
2. Abrasion left neck lateral to Thyroid cartilage, oblique of size 3 x 1/4 cm.
3. Abrasion on left cheek of size 2 x 1/2 cm.
4. Abrasion left neck laterally, horizontal size 3 x 1/2 cm.
5. Contusion left hypogastic region of size 7 x 4 cm. bluish coloured.
6. Contusion Rt. hypogastic region of size 6 x 4 cm. bluish coloured.
7. Contusion Rt. thigh at superior medial part (lateral to vagina) of size 3 x 3 cms bluish coloured.
8. Contusion mid part of right thigh, medially of size 3 x 1 cm.
9. Contusion mid part of left calf, medially of size 3 x 1 cm.
10. Contusion left thigh just above knee joint, posteriorly of size 3 x 3 cms, bluish coloured.
11. Contusion posteriorly to left thigh, above injury No. 10 horizontal of size 7 x 1 cm. bluish coloured.

15. He has opined that all these injuries were antimortem and injuries 1 to 4 are possible if a person is hustling. While injuries 5 and 6 are possible by means of kick or fist blows and injuries 7 to 11 are possible by means of any hard and blunt object. The Sessions Court has elaborately discussed the evidence of medical officer in para 10 and 11 and arrived to the conclusion that, the injuries sustained by the deceased Chhabubai were homicidal injuries and as a consequence her small intestine was damaged and resulted in her death.

The defence which was taken by the Appellants was that the injuries sustained by the deceased Chhabubai to her intestine were accidental and were not homicidal. It was suggested to Dr. Vyavhare, Medical Officer during the cross

examination that injuries 1 to 11 are possible by multiple fall on hard and rough surface. However, the medical officer has nowhere admitted that these injuries are possible by rolling on hard ground. The Sessions Court has dealt with this aspect in para 11 of the judgment and reached to conclusion in para 12 that the defence theory itself is improbable and it is nothing but a after thought creation. The Sessions Court has recorded that, the contention of the Appellant/accused that while rolling on the ground, deceased Chhabubai was dashing her intestinal portion of body against the ground and, therefore, she sustained the injuries. The Sessions Court has given due consideration to the said submissions of the defence and has observed in para 12 that if Chhabubai was really rolling then, there ought to have been injuries to her back side also. The medical evidence suggest injuries are only on the front part of body. Therefore, theory of rolling as suggested by the defence is not believable, nor it is believable that, deceased Chhabubai sustained injuries to her intestine in such a manner and, therefore, the injuries sustained by the deceased Chabu were homicidal injuries.

(emphasis supplied).

Prosecution witness No. 4 Kamalbai whose evidence is at Exhibit 43 and who was witness to the inquest panchanama stated in her evidence before the Court that, the dead body was seen by her, there were scratch marks around neck, chest, calf and waist and knee. They were marks of beating. Panchnama bears my signature and its contents are correct and it is at Exhibit 44.

16. It has come in the evidence of complainant and also wife of the complainant i. e. mother of the deceased that the accused illtreated deceased Chhabubai, because she did not bring a wring of one tola gold, but brought a ring of only half tola gold. On perusal of evidence of the prosecution witnesses it becomes clear that half tola gold ring was already given by the parents of the deceased. However, accused were insisting remaining half tola gold and, therefore, there are such recitals in the complaint. The complainant and his wife Lochanabai were cross examined at length on the relevant point, but nothing could be brought on record to disbelieve their testimony.

P.W. 2 and P.W. 3 have stated in their deposition that the accused No. 1/Angad use to assault the Chhabu i. e. deceased. It has also come in the evidence of these witnesses that the complainant/P.W. 2 use to visit house of accused to meet his daughter once in a week. Though it has not come on record the distance between village of the complainant and accused persons, the counsel appearing for the parties have stated that the distance between two villages is 15 to 20 K. Ms. P.W. 3 has also stated in her deposition that, "she use to send complainant/her husband to see Chhabu once in a week for fortnight. She has stated in her evidence that since there was frequent illtreatment by the husband and, therefore, she use to sent complainant/her husband to the house of Chhabu once in a week.

17. In the present case, there are admitted facts and from these admitted facts,

it can be safely gathered that the version of the prosecution witnesses and more particularly complainant and his wife is trustworthy. It is not in dispute that all the accused who are tried were staying together. It is also not in dispute that the matrimonial life of the deceased Chhabu was peaceful for initial two and half years. This has been stated by the complainant and his wife and during this period she begotten a son from accused/Appellant No. 1 Angad. Thereafter, the accused persons started ill-treating the deceased Chhabu for demand of gold, cloths in token of karnidharni.

They also wanted that her father should arrange a programme of GharGhusni and to honour them by offering cloths and this fact was disclosed by deceased to her parents. Therefore, at the time of panchami of the last year of her death, complainant arranged such programme and offered cloths to the accused persons by calling them to his village. He has also offered them half tola gold ring.

18. It is not in dispute that, at the relevant time, the deceased Chhabu was in the house of accused at his village, as it is evident from the spot panchanama Exhibit 41. Therefore, taking into consideration evidence of the complainant and his wife and the injuries noticed by the P.W. 4 at the time of inquest panchanama and more importantly the medical evidence, there is no manner of doubt that the incident in question has taken place at the place of the accused/Appellants. According to the medical officer injury No. 5 and 6 was fatal and ultimately resulted into death of the deceased Chhabubai. The important point which is required to be noted is that, there was no attempt on the part of the Appellants to take Chhabu to the hospital. The inference drawn by the Sessions Court for not taking Chhabu to the hospital by the Appellants/accused is required to be confirmed. The reason which is given by the Appellants/accused not to take the Chhabu to the hospital is that the day on which incident took place being Sunday, the Government Hospital was closed. Such contention of the Appellants is only liable to be rejected as observed by the Trial Court. They should have taken the deceased to the private hospital. The father of the deceased was required to take her in bullock cart, however, on the way the deceased died. The conduct of the family members of the Appellants not to take Chhabu to the hospital that itself is the strong circumstance which goes against the accused/Appellants.

The Appellants in their statement which was recorded Under Sections 313 of the Code of Criminal Procedure in reply to question No. 8 and 11 have replied thus:

Q. 8 It has come in the evidence that complainant asked you as to why she was not taken to the hospital but you replied that hospital was close therefore he started taking her to the hospital in bullockcart but she expired on the way. What you have to say about it ?

Ans. It is true.

Q. 11. It has come in the evidence that PSI Mukeri prepared panchanama of the spot on 14.10.1994 as per Exhibit 41 as well as inquest panchanama as per

Exhibit 44. What you have to say ?

Ans: It is true.

Therefore, the prosecution has proved beyond doubt that the incident in question had taken place at the place of accused persons. The prosecution has further proved beyond doubt that there was no attempt on the part of the Appellants/accused to take the deceased Chhabu to hospital.

19. So far conviction of the accused/Appellant No. 3 for offence Under Sections 498A is concerned, in my opinion, the prosecution evidence is not sufficient to sustain the said conviction. The gold ring of half tola was given to the husband and whole prosecution story is that the accused wanted ring of one tola. Certainly the said ring was only for the husband and not to child or the parents. Therefore, the evidence which is brought on record indicates that beating or assaulting is by the husband as it is evident from the injuries sustained by Chhabu, there are as many as 11 injuries which are noticed by the medical officer. The golden ring was only useful for the husband. As stated earlier the evidence of complainant and his wife, medical evidence and evidence of P.W. 4 unequivocally indicates that the accused Angad is responsible for the offences alleged. It is true that the parents of the accused Angad ought to have taken care of the deceased Chhabu and they are also to some extent responsible for not taking to her hospital and also for other certain things, which are attributed by the prosecution to them. However, on the whole evidence falls short to sustain the conviction of Appellant No. 3. The Sessions Court has observed that, there is evidence to show that accused No. 2/Rajendra and accused No. 6 Malanbai were harassing the deceased. Said observations are in para 19 of the judgment. There are further observations in para 20 of the impugned judgment that, the disclosure made by the deceased before her parents shows that she was not being provided with food and such type of act can be done by her mother-in-law i. e. accused No. 6 Malanbai and, therefore, the learned Sessions Judge arrived to the conclusion that the Appellant Nos. 2 and 3, parents of the accused/Angad are also responsible for the offence and, therefore, they are convicted Under Sections 498A of the Indian Penal Code. In my opinion as stated earlier, gold ring of half tola or one tola was for the husband/Angad and it was not for the parents. On perusal of the evidence of the complainant and his wife and also other evidence brought on record by the prosecution, all other demands of the husband were fulfilled by the parents of the deceased. Only they did not give one tola ring instead they gave half tola golden ring to the husband. That was the reason it appears that, the husband was bent upon to ask for remaining half tola gold ring. Since the incident in question has taken place at the place of accused/Appellants and the medical evidence convincingly establishes that it is the only accused persons who are responsible for the said act. The prosecution has proved beyond doubt that the injury No. 5 and 6 mentioned in the evidence of medical officer were and such injury cannot be without any assault. The doctor in his evidence has confidently stated that the injury Nos. 5 and 6 are possible by

means of kick or fist blows. Therefore, on appreciation of the entire evidence brought on record by the prosecution corroborated by the medical evidence, the Sessions Court has rightly arrived to the conclusion that the Appellant/Angad was responsible for such injuries and, therefore, he is convicted Under Sections 304II.

It would be relevant at this juncture to reproduce para 24 from the Trial Court judgment which reads thus:

24. Now, lastly we have to consider the nature of offence committed by accused No. 1 Angad as he has caused homicidal injuries to the deceased. The Medical Officer Dr. Vhavahare has deposed that death of deceased Chabu took place because of the internal injury to her intestine. According to him this injury is a result of the external injuries 5 and 6. He also opined that the internal injury sustained by deceased Chabu was sufficient in natural course to cause death of deceased Chabu. Therefore, causing of death of deceased Chabu by means of such injury was within the knowledge of accused No. Therefore, the accused No. 1 Angad seems to have assaulted the deceased on her vital part with the knowledge that she might succumb to death. At the same time there is no iota of evidence to show that accused No. 1 Angad intended or expected the death of deceased Chabu. What he did was his passion to illtreat her as she had not satisfied the lust of the accused for prestige. Therefore, the act of the accused No. 1 Angad comes not u/s 302 of IPC as there is absence of intention but it certainly comes within the scope of part II of Section 304 of IPC i. e. causing culpable homicide without intention but with the knowledge.

Upon careful perusal of para 24 reproduced hereinabove the conviction of the Appellant No. 1/Angad Under Sections 304II is independent and based upon concrete evidence laid by the prosecution. On independent scrutiny also in my opinion, the findings recorded by the Trial Court in para 24 are in consonance with the evidence brought on record by the prosecution. The Trial Court has taken a possible and reasonable view in the matter.

The Trial Court has held that the case in hand is not covered Under Sections 306 of the Indian Penal Code. The said finding of the Trial Court is based upon evidence of the doctor and C. A. report .

20. As stated earlier, the complainant and his wife and other witnesses are from the villages and as rightly observed by the Sessions Court that, being illiterate persons, they are bound to commit certain small contradictions or mistakes here and there.

However, on the whole if the evidence of the prosecution witnesses and more particularly medical evidence is perused it unequivocally indicates that Chhabu died homicidal death. The deposition of the P.W. 2 and P.W. 3 before the Court clearly shows that accused/Angad use to frequently assault Chabu. Both the witnesses have stated that P.W. 3 i. e. complainant use to visit the house of accused/Chhabu in a week. P.W. 4 in her evidence has stated the injuries on the

person of the deceased. The Trial Court has rightly held that, the Appellant No. 1/Angad is liable to be convicted for the offences Under Sections 304II and 498A of I. P. Code. Therefore ,in my opinion, this is a fit case in which the judgment and order against the Appellant No. 1/Angad is required to be maintained. Therefore, his appeal stands rejected.

However, as stated earlier, looking to the entire evidence brought on record by the prosecution against the Appellant No. 3/Malanbai, in my opinion, the evidence falls short to sustain the conviction of the Appellant No. 3 i. e. mother of the Appellant No. 1.

21. The another submission of the counsel for the Appellant that assuming that Chhabubai was assaulted, it can only be said that, the assault is one which is covered Under Sections 319 of the Indian Penal Code and no knowledge can be attributed to the accused of causing death. Therefore, the offence would fall Under Sections 323 of I.P. Code, where the punishment may extend to one year, or with fine which may extent to Rs. 1,000/so far of this submission is concerned, taking into consideration the evidence of prosecution and the fact that, at the relevant time of the incident Chhabubai was at the place of accused persons and she was not taken to the hospital by the accused and only when the complainant reached to their place, he took her to the hospital speaks voluminous. Any reduction of sentence would only sent wrong signal to the society. The Hon''ble Supreme Court in case of State of M. P. v. Kashiram reported in 2009 (3) Mh. L. J. 107 has observed that, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. etc.

The Hon''ble Supreme Court further observed in para 15 of the said judgment that, the object should be to protect the society and to deter the criminal in achieving the avowed object of law by imposing appropriate sentence. It is expected that the Courts would operate the sentencing system so as to impose such sentence which reflects the conscience of the society and the sentencing process has to be stern where it should be. The Supreme Court further observed in para 16 that, imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belongs. Para 16 and 17 of the aforesaid judgment reads thus:

16. Imposition of sentence without considering its effect on the social order in many cases may be in reality a futile exercise. The social impact of the crime, e.g. where it relates to offences against women, dacoity, kidnapping, misappropriation of public money, treason and other offences involving moral

turpitude or moral delinquency which have great impact on social order, and public interest, cannot be lost sight of and per se require exemplary treatment. Any liberal attitude by imposing meager sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result wise counter productive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system.

17. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal.

22. Therefore, taking into consideration overall evidence brought on record by the prosecution, the findings recorded by the Sessions Court, the arguments advanced by learned Counsel for the Appellants, in my opinion, ends of justice would meet if the conviction of Appellant No. 1/Angad is sustained for offence punishable Under Sections 304II and Section 498A of the Indian Penal Code. Therefore, the judgment and order of the Sessions Court in respect of Appellant No. 1/Angad stands fully confirmed. In short, the sentence awarded by the Trial Court to accused/Angad Rajendra Mane stands fully confirmed. So far, Appellant No. 2 is concerned, as stated earlier, since during the pendency of this appeal, he died, this appeal stands abated qua Appellant No. 2.

23. The Appellant No. 1 and 3 are present in this Court. Since the conviction of the accused No. 1 is confirmed, he should be immediately taken in to custody directly from this Court and after completing necessary formalities should be sent to Jail to undergo remaining part of the sentence as ordered by the Trial Court.