

(2012) 10 BOM CK 0067
In the Bombay High Court
Case No : Criminal Appeal No. 339 of 2011

Dinesh Shankarrao Deshmukh

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 372
Penal Code, 1860 (IPC) — Section 306, 34

Citation : (2013) ALLMR(Cri) 205 : (2013) 3 BomCR(Cri) 464

Hon'ble Judges : Abhay M. Thipsay, J

Bench : Single Bench

Advocate : R.V. Newton, APP for the State and Mr. S.H. Joshi, for R. Nos. 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

Abhay M. Thipsay, J.—One Krishnaji Parshuram Zunjarrao committed suicide by consuming some poisonous substance on 9/2/1998. After his death, his son-in-law Dinesh Deshmukh-the present appellant-lodged a report with the police that the suicide by the said Krishnaji Zunjarrao was abetted by Respondent Nos. 2,3,4 and 5 herein, who were superiors of the said Krishnaji in his office. The said Krishnaji was working in the Agricultural Department of the Government. Based on this report. Respondent Nos. 2, 3, 4 and 5 were apprehended and prosecuted on the allegation of having committed an offence punishable u/s 306 of the Indian Penal Code (IPC) read with Section 34 of the IPC. After holding a trial, the learned Additional Sessions Judge, Kalyan found them "not guilty" and passed an ordered of acquittal.

2. The present appellant, who, as aforesaid, is the son-in-law of the said Krishnaji Zunjarrao, claiming to be "a victim", has filed the present appeal against the order of acquittal of Respondent Nos. 2,3,4 and 5, purportedly under the provisions of Section 372 of the Code of Criminal Procedure.

3. The appellant or his counsel did not remain present before the court. As such

no arguments in support of the appeal could be heard on behalf of the appellant. The matter is, therefore, being decided, after hearing Smt. Newton, learned APP and Mr. Joshi, learned counsel for Respondent Nos. 2, 3, 4 and 5.

4. With the assistance of learned APP and Mr. Joshi, learned counsel for Respondent Nos. 2,3,4 and 5, I have gone through the impugned judgment.

5. I have also gone through the other annexures to the appeal memo.

6. The substance of the allegations against Respondent Nos. 2, 3, 4 and 5, was that they being the superiors of the deceased Krishnaji, were harassing him in a number of ways and had obtained his signatures on certain registers with the object of falsely involving him in some corruption case. That, these acts of the respondents were continuously going on for a considerable length of time and ultimately apprehending that he would be implicated in some corruption case, the said Krishnaji committed suicide.

7. I have gone through the reasoning of the trial as reflected in the impugned judgment.

8. The learned Judge held that the fact of suicide was satisfactorily proved but what was under consideration was whether the suicide that had been abetted by the accused i.e. Respondent Nos. 2 to 5 herein.

9. On facts, the learned Judge held that the theory that Respondent Nos. 2 to 5 had created tension in the mind of Krishnaji and that, he, therefore, committed suicide was not satisfactorily proved. The learned Judge observed that the deceased was an experienced officer and, even if, he had been made to sign blank documents, he would know how to get out of such situation and would not resort to committing suicide for that reason. The learned Judge also observed that the evidence revealed that the deceased had so many other family problems and that the suicide might be attributable to those problems.

10. The reasoning of the learned Additional Sessions Judge does not seem to be improper or perverse.

11. Apart from this, a significant point which was not discussed by the learned Additional Sessions Judge, needs consideration. The act of abetment would necessarily require mens rea. It is well settled that, unless, that suicide should be committed, is intended by the so-called abettors, there would be no offence punishable u/s 306 of the TPC. In this case, there was no evidence that Respondent Nos. 2 to 5 intended that the said Krishnaji should commit suicide. There is not even an allegation to that effect.

12. It is well settled that while dealing with appeals from the orders of acquittals, this court would not interfere with the finding arrived at by the trial court, even if, two views of the matter would be possible. The interference would be justified only, if the view taken by the trial court would be perverse or would be an impossible view. It is not that the learned Judge ignored to take relevant and

admissible evidence into consideration or that he based his conclusion on inadmissible material.

13. The least that can be said is that the view taken by the learned Judge is certainly a possible view of the matter. Under the circumstances, no interference is warranted. The appeal is summarily dismissed.