
(1992) 12 BOM CK 0030
In the Bombay High Court
Case No : Criminal A. No. 281 of 1986

Ramesh Rama Ubale and Another	Vs	APPELLANT
State of Maharashtra		RESPONDENT

Date of Decision : 07-12-1992

Acts Referred:

Penal Code, 1860 (IPC) — Section 306, 34, 498A

Citation : (1993) 1 DMC 494

Hon'ble Judges : H.D. Patel, J

Bench : Single Bench

Advocate : D.S. Sawant, for the Appellant; B.G. Vaidya, for the Respondent

Judgement

H.D. Patel, J.—The Judgment of the Sessions Judge in Sessions Case No. 146 of 1985 decided on 27th March. 1986 is impugned in this appeal.

2. Appellant No. 1, Ramesh, who was original accused No. 1, and Appellant No. 2, Janabai are the son and mother who were charged for having committed offences punishable u/s 306 read with Section 34 and Section 498A of the Indian Penal Code for having abetted the commission of suicide on account of cruelty caused to her by the Appellants.

3. The case of the prosecution was that the deceased Ranjana was the daughter of Ramchandra Punja Gore (P.W.I) of Igatpuri. Ranjana was married to Accused No. 1 some eleven months prior to the incident. She used to visit her parents house and once she was got medically treated by her parents. After four days of treatment, accused Ramesh came to the house of his in-laws in a drunken state and after quarrelling with them took away his wife, to his house. Further case of the prosecution was that thereafter one month she complaint to her mother that she was being ill treated by accused Ramesh and his family members. Again 7-8 days prior to the incident, accused Ramesh and Ranjana visited her parents house and stayed their for two days and went back. The case of the prosecution further was that on 22.4.1984 Ranjana sent a message with one Nanubai Hari

Manohar (P.W. 4) to visit her house as she was being ill treated. The said message was received by their daughter Usha (P.W. 5), the sister of Ranjana. On receipt of the message, Ramchandra (P.W. 1) decided to visit her house and, therefore, he contacted his brother-in-law, Khachru Salve. Next day morning at about 10 a.m. they all went to the house of the accused. Rama Ubale and his children were in the house. There Ramchandra made enquiries with her daughter about the ill treatment. Her daughter Ranjana spoke in presence of all including her father-in-law Rama that accused Ramesh beats her up under the influence of liquor, untie her saree and press her neck. Ramchandra. hence advised Rama to see that everyone at house behaves properly and particularly accused Ramesh. Otherwise they would take back Ranjana. While Ramchandra and others were leaving, it is the case of the prosecution that Ranjana gave out her apprehension to her mother that her husband and mother-in-law will create a Tamasha in the evening on their return from duty because of the visit by her parents and relatives. In the evening Kachru Salve came to the house of Ramchandra and informed him that Ranjana had been admitted in the hospital. Ramchandra was not in the house but phone message came to be delivered. In the meanwhile, Sakubai went to the hospital and found that Ranjana had expired. She suspected that the accused persons must have killed her. The report was made by the medical officer to the police after she was admitted in the hospital. P.S.I. Gajanan, Khairnar (P.W. 6) investigated the complaint and on completion thereof, the charge-sheet came to be filed.

4. The accused persons pleaded not guilty to the charge and claimed to be tried. According to them, they had not treated Ranjana with cruelty and are not responsible for suicide.

5. The learned Additional Sessions Judge, Nashik, who tried the case after considering the evidence, adduced by the prosecution, held that the prosecution has established that the accused persons by wilful conduct subjected Ranjana with cruelty which drove her to commit suicide and hence the learned Judge proceeded to convict the accused persons u/s 498-A of the Indian Penal Code and sentenced them to suffer rigorous imprisonment for three years and to pay fine of Rs. 1000/- and in default to suffer rigorous imprisonment for three months more. It is this conviction and sentence which is impugned in this appeal.

6. In order to establish the charges, the prosecution examined seven witnesses. I shall independently deal with each one of them since it is contended and vehemently so that the evidence on record false short to establish the guilt of either or the accused.

7. Ramchandra (P.W. 1), the father of the deceased narrated that she was married to accused Rama a year prior to the incident. The village Pimpri Sadaruddin is about one and a half mile away from Igatpuri. The villagers from Pimpri used to visit Igatpuri for purchasing food grains. The accused persons as well as Ranjana also used to come like others and simultaneously visit the house of Ramchandra. Ranjana died after eleven months of the marriage. Ranjana had

stayed with the parent for two-three days before she left to husband's house on 18/4/1984. She was happy at that time. On 22/4/1984 Nanubai (P.W. 4) sent a message to Usha another daughter of Ramchandra that Ranjanabai was being beaten and ill treated by the accused persons. The message was received in the evening. Therefore, Madhukar (P.W. 3), Kachru, the witness himself and the wife Sakubai (P.W. 2) went to Pimpri on the next day. They were served with tea. Ramchandra then deposed that he called Ranjanabai. She told that accused Ramesh ill treated her by beating under the influence of liquor, untie her saree and pressed his fingers on the neck. Rama, the father of accused Ramesh, was then advised to behave properly. While leaving Rama was also informed that they take Ranjana back, if such behaviour is not stopped. Later on the very same day Ramchandra received a phone message that Ranjana was serious and admitted in the hospital. On reaching Igatpuri-Ramchandra-Ramchandra found Ranjana dead in the hospital.

8. In cross-examination, Ramchandra stated that her daughter Ranjana use to complain about ill treatment. He however was positive that no complaint was made to him on 18/4/1984. He also admitted that accused Nos. 1 and 2 were not in the house when he and others visited their house on 23/4/1984. They had gone for their respective duties. Rama, the father of accused Ramesh accompanied the witness on their way back to Igatpuri. The witness denied that the visit to the house of Rama was not casual.

9. Sakubai (P.W. 2) is the other witness. She narrated that Ranjana was her daughter. After marriage she used to visit Igatpuri for weekly marketing. She also visited at the time of Diwali. During Shingra festival the accused Ramesh came to our house. He was drunk. He quarreled with us and took away Ranjana. She then deposed that RANJANA told her about the ill treatment given by accused after consuming liquor and also by accused No. 2 Janabai. On a day prior to the incident, Nanubai (P.W. 4) came to her and said that Ranjanabai was being ill treated and that she had called us. She then narrated her visit along with others including Madhukar (P.W. 3) to the house of the accused. She then speaks about the advice given to accused Ramesh but corrects herself in cross-examination that he was not at home. The father of the accused was, however, warned that they would take back Ranjana if the acts complained of were repeated. When she was leaving the house, Ranjana confided to her mother that the accused persons will make Tamasha in the evening as we had brought numbers of persons to the house. On return from Pimpri the witness tells the Court about information received at 7 p.m. that Ranjana was in the hospital and her condition was serious. She reached there to find Ranajana dead. She saw marks of injuries all over her body and she was swollen.

10. She asserted in cross-examination that the injuries were there on nails and other parts of the body. Ranjana did not have external injuries probably meaning the wound. She asserted that Ranjana only told her about the accused persons making Tamasha on their return. The witness did not disclose this fact to anyone.

11. The version of the above two witnesses was attacked on behalf of the defence on the ground that it lacks consistency and should not be relied upon. There is, however, no substance in this submission. At this stage it will be relevant to observe that even Madhukar (P.W. 3) has mostly corroborated Ramchandra (P.W. 1) on material points. One cannot forget that Sakubai (P.W. 2) being the mother of Ranjana. She would be latter informed because the daughter would confine only to her mother and not the male members of the family. Though Sakubai (P.W. 2) was throughout emphatic that she received complaints of ill treatment to Ranjana since before Ramchandra deposed about ill treatment by accused Ramesh only to the extent he learnt about it. It is in this background he stated that he heard no complaints on 18/4/1984 when Ranjana had visited them and therefore he presumed that both were happy. The fact still remains that on the day of the incident, both Ramchandra (P.W. 1) and Sakubai (P.W. 2) along with Madhukar (P.W. 3) and Kacharu went to Pimpri to thrash out the matter. There in presence of all including Rama it was disclosed by Ranjana that the accused Ramesh was not only beating her under the influence of liquor but also used to untie her saree and press her neck with his fingers. Of course, these minute details are not given out by Sakubai (P.W. 2) but at the same time it was not pointed out as omission in the police statement. Sakubai (P.W. 2) further wants the Court to believe that accused Ramesh was drinking liquor as he had once quarreled in an intoxicant state. It appears .that accused was in the habit of drinking and was becoming violent whilst under influence of liquor. The result was apparent. Ranjana suffered beating and humiliation. A very pertinent feature which could not lost sight of is the apprehension in the mind of Ranjana about the Tamasha which the accused are likely to create after their return from work and upon receiving information about visit of in-laws along with others and the purpose behind it. Her surmise seem to have materialised that very evening. As per evidence on record Ranjana consumed poison and was required to be shifted to hospital where she succumbed .Ranjana consumed poison is clear from the evidence of Dr. Iqbal, (P.W. 7) and the Chemical Analyser's report (Exh. 12) which discloses the defection of oregano-phosphorus insecticide in the viscera taken out by Dr. Iqbal (P.W. 7) while conducting post mortem.

12. The fact remains that Ranjana died as a result of having consumed poison. It was a suicidal death. The question that arises for determination is whether it was the wilful conduct on the part of the accused which prompted Ranjana to commit suicide? The question is not difficult to answer having discussed the evidence in great details. The conduct of accused Ramesh was of such a nature which drove Ranjana to commit suicide. He subjected his wife to cruelty by beating her under the influence of liquor. Accused Ramesh went further to humiliate his wife by uniting her saree or pressing her neck in such a condition. The cruelty inflicted by accused Ramesh on Ranjana had reached to such a stage that she ultimately committed suicide. In so far as accused Janabai is concerned, none of witnesses have specifically attributed any overt act by her in inflicting cruelty on Ranjana except by joining her name with accused Ramesh. It is not enough for this Court

to convict her also u/s 498A of the Indian Penal Code. She alone deserves to be acquitted.

13. The conviction of accused Ramesh u/s 498A of the Indian Penal Code is confirmed. He has, however, been awarded maximum sentence of three years and fine of Rs. 1000/- or in default to undergo rigorous imprisonment for a further term of three months. The sentence as imposed is undoubted harsh considering the strafe from which these persons hail and belongs. The record shows that accused Ramesh was arrested on 30/5/1984 and was released on bail only on 6/11/1985 during pendency of the trial. This period will have to be given set off if the punishment as imposed is maintained. In my opinion, the period of one and half year from 30/5/1984 to 6/11/1985 as an undertrial is more than sufficient to meet the ends of justice. The punishment of fine, however, remains unchanged.

14. From the above discussions, the appeal partly succeeds. Accused Janabai (Appellant No. 2) is acquitted. Her bail bonds be cancelled. The conviction of accused Ramesh u/s 498A is maintained. The sentence of three years is, however, reduced to one already undergone and sentence regarding payment of fine remains unchanged. The record shows that the fine is not yet paid. Time of one month is allowed to make the payment failing which the alternative sentence which is to follow on default of payment should be enforced. The accused should surrender to bail on expiry of one month in case the fine amount is not paid.