
(2014) 06 BOM CK 0204

In the Bombay High Court

Case No : Criminal Appeal Nos. 1455 of 2011 and 56 of 2012

Vasant Shamrao Dhole and Others

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 17-06-2014

Acts Referred:

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

Citation : (2015) ALLMR(Cri) 578 : (2015) 3 BomCR(Cri) 273

Hon'ble Judges : Sadhana S. Jadhav, J

Bench : Single Bench

Advocate : Shekhar Ingawale and Siddheshwar B. Kalel, Advocates for the Appellant; S.S. Pednekar, A.P.P, Advocates for the Respondent

Judgement

Sadhana S. Jadhav, J.—Both the appeals are arising out of the same Judgment and Order dated 18th November, 2011 passed by the Additional Sessions Judge, Islampur in Sessions Case No. 4 of 2002. Hence, both the appeals are disposed of by this common Judgment. The appellants in Criminal Appeal No. 1455 of 2011 i.e. accused Nos. 1 and 4 are convicted for offence punishable under Section 498A read with Section 34 and sentenced to suffer R.I. for one year each and to pay fine of Rs. 1,000/- each i.d. to suffer S.I. for 3 months. They are further convicted for offence punishable under Section 306 read with Section 34 of the Indian Penal Code and are sentenced to suffer R.I. for five years each and to pay fine of Rs. 2,000/- each i.d. to suffer S.I. for 6 months.

2. The appeal of the appellant No. 1 in Criminal No. 56 of 2012 i.e. accused No. 2 stands abated. The appellant No. 2 in Criminal Appeal No. 56 of 2012 i.e. accused No. 2 is convicted under Section 498A read with Section 34 of the Indian Penal Code and is sentenced to suffer S.I. for one year and to pay fine of Rs. 1000/- i.d. to suffer S.I. for one month. The accused No. 3 is also convicted for offence punishable under Section 306 read with Section 34 of the Indian Penal Code and sentenced to suffer S.I. for one year each and to pay fine of Rs. 2000/- i.d. to suffer S.I. for one month.

3. Being aggrieved by this Judgment and Order, the accused have filed these appeals.

4. Such of the facts necessary for the decision of these appeals are as follows:

Sarita @ Pinku was married to original accused No. 1 on 23rd March, 2000. The original accused No. 4 is the sister of original accused No. 1. The accused No. 1 was serving in S.R.P. at Mumbai. Five days after the marriage the accused No. 1 joined his duty at Mumbai. However, his wife Sarita was residing in the matrimonial home alongwith her parents in-law and sister-in-law at village Ingrul, Taluka Shirala. It is alleged that the accused had insisted upon Sarita to bring cash amount from her parents for purchasing landed property. They coerced her for the same and she was ill-treated on the said count. It is further alleged that she was threatened that upon failure to fulfill their demand her husband i.e. Vasant would perform second marriage. Sarita had allegedly disclosed about the ill treatments meted out to her to her brother Vikas and other family members. The parents and relatives of Sarita had given an understanding to the accused persons. Sarita was taken to Mumbai by her husband after 8 months of marriage. They resided at Mumbai for about 5 to 6 months and then they returned to village Ingrul. Thereafter, accused Vasant left for Mumbai alone. He used to visit village Ingrul intermittently. It is alleged that for 10 days Sarita had resided with her parents and at that time she had complained against her in-laws. She had disclosed that her husband had threatened her that upon failure to fulfill the demand he would not take her to Mumbai.

5. On the occasion of Rakshabandhan father-in-law of Sarita had taken her to her maternal house and had allegedly reminded her of the demand. On 8th August, 2001 the accused Vasant took Sarita to village Ingrul and left for Mumbai. On 22nd August, 2001 Sarita had visited her maternal house on the occasion of Gauri Ganpati. She had reiterated her complaint. On 27th August, 2001 Vikas i.e. brother of Sarita received a message that father-in-law of Sarita was hospitalized and therefore, she should be sent immediately. On the same day at about 4 p.m. Vikas dropped Sarita at her marital home. It is alleged that the mother-in-law of Sarita had told Vikas that if they cannot arrange for payment, they should not take Sarita to her maternal house. It appears from the conversation that mother-in-law had told Vikas that it was assured that Sarita would return to matrimonial home within four days. However, there was delay and therefore, she would not take her in the house. Vikas had tendered apology and thereafter Sarita was allowed to reside in the matrimonial home. On the same day, at about 8 p.m. Daji Shahaji Katkar i.e. brother-in-law of the complainant Vikas informed him that Sarita had left the matrimonial home under the pretext of answering nature's call and had not returned home. Hence, Vikas went to the village and they had started searching for her. On 28th August, 2001 at about 8 a.m. Malhari Nalawade informed Vikas that he has seen plastic bucket near the well of Harijan community. He has also seen pair of slippers and

therefore, he had suspected that Sarita might have jumped into the well. Vikas alongwith his uncle Shamrao Nalawade and his mother went to village Ingrul. Shamrao Nalawade informed Vikas that before going to her matrimonial home, Sarita had told his grand daughter Deepali that she had written one chit in English book of Deepali - to be handed over to Vikas. He traced the chit on which it was written that the mother-in-law is greedy about dowry and therefore, she may force her son to perform second marriage. It was written that all members of the matrimonial family used to abuse and assault her and that they should be punished in accordance with law.

6. Vikas and others came near the well of Harijan community and searched for Sarita. They saw the dead body of Sarita floating on the surface of water. They removed the said dead body. Malhari, cousin of Vikas went to Shirala Police Station and lodged a report in respect of suicide committed by Sarita. A.D. No. 25 of 2000 was registered. The police performed inquest panchanama of Sarita near the well. The dead body was sent for post mortem. Scene of offence panchanama was recorded.

7. On 31st August, 2001 Vikas Nalawade filed a complaint against the accused alleging therein that they had committed offence punishable under Section 498A and 306 read with Section 34 of the Indian Penal Code. On the basis of his report Crime No. 53 of 2001 was registered against the accused. On 31st August, 2001 the complainant produced the suicide note written by Sarita before the police and the same was seized under the panchanama. Note book was also seized. The note was sent to handwriting expert for opinion. After completion of investigation charge-sheet was filed on 18/11/2001. The case was committed to the Court of Sessions and registered as Sessions Case No. 4 of 2002. The prosecution examined 12 witnesses to bring home the guilt of the accused.

8. P.W. 1 Suresh Shankar Jadhav is the panch for scene of offence panchanama which is at Exh. 14. He has proved the contents of the panchanama. He has admitted in the cross-examination that the deceased is his distant relative. Malhari and Vikas were present at the well. They were also present there when the police arrived there. That the parapet wall of the well is damaged at some places. Bucket and slippers were there. People go there to answer nature's call. They were rainy days and that the police were at the scene of offence till 4.30 p.m. and that the police had enquired with the relatives but had not recorded their statement.

9. It is pertinent to note that the scene of offence panchanama was conducted in A.D. No. 25 of 2001 on 28/8/2001 between 1.30 p.m. to 2.10 p.m. That none of the relatives including the complainant had raised any suspicion against the accused persons.

10. P.W. 2 and 3 are hostile witnesses.

11. P.W. 4 Jaysing Rajaram Patil is the panch for seizure of the notebook which is at Exh. 22. In the cross-examination, the witness has specifically stated that he

had no knowledge about the contents of the panchanama. Police had simply obtained his signature on the panchanama and that he was not aware as to who had produced the note book. He had left for his office work without reading the contents of the panchanama. It is specifically stated that when he signed panchanama, other panch was not present. Exh. 22 shows that the second panch was Pravin Patil. It is specifically contended by P.W. 4 that Pravin Patil was not present at the time of panchanama.

12. P.W. 5 Jaysingrao Landge is the hand-writing expert. He had obtained a diploma in documents examination. He was requested by the police from Shirala Police Station for examination of the document. He had opined that the similarities are found between the disputed hand writing and standard hand writing are significant and are sufficient to prove their common authorship when considered collectively. It is elicited in the cross-examination that he had not given opinion in respect of figures appearing in the document N1. He had not examined the handwriting of the pinned four papers. He had also not examined majority of the papers from note book. He has specifically stated that the note book was not bearing signature of either police or panchas. This would be a clear indicator that there was no panchanama of the seizure of the said note book. P.W. 5 has given the details in respect of similarities found in the chit with the handwriting in the note book.

13. P.W. 6 Vikas Nalawade is the brother of the deceased Sarita. He is the complainant who has lodged the report which is at Exh. 29. He has deposed before the Court that on 27th August, 2001 he had taken Sarita to her matrimonial home at about 4 p.m. At that time, he had told mother-in-law of Sarita that he would make arrangement for the payment. After one hour he had returned home. On the same day at about 8 p.m. Shahaji Katkar had informed him that Sarita had left her matrimonial home at about 7 p.m. to answer nature's call and has not returned home. According to him, when they reached the house of the accused persons, the door of the house was closed. However, the sister in law of Sarita was sitting outside the house and she has shown the direction in which Sarita had gone. They searched for Sarita. On the next day in the morning at about 8 a.m. he had received information from Malhari Nalawade who had expressed his suspicion that Sarita must have jumped in the well. He soon informed about the same to his uncle Shamrao Nalawade and at that time he had told the complainant that he had learnt from Deepali that Sarita has written a chit in her English notebook. P.W. 6 has identified the said chit which is at Exh. 28 and has also identified her handwriting.

14. At this juncture, it is pertinent to observe that before finding the dead body of Sarita the complainant had seen the chit and read the chit written by her in the English note book of Deepali. There was no attempt by the witness P.W. 6 to inform the police although he was present at the time of inquest panchanama or scene of offence panchanama.

15. It is elicited in the cross-examination that the accused had landed property

and therefore, the financial position is good. He has admitted in the cross-examination that at the time of lodging of the F.I.R. he had told the police that there was a demand of Rs. 50,000/-. However, the same does not find place in the F.I.R. In the F.I.R., he had stated that there was demand of money for purchasing the land. However, the amount of Rs. 50,000/- is not mentioned. He was confronted with the report and has admitted that at the time of lodging of F.I.R. he was sick. He had read the complaint hurriedly and therefore the amount of Rs. 50000/- is not mentioned. He has further clarified that at the time of cross-examination itself for the first time he has realised that the amount of Rs. 50,000/- is not mentioned in the F.I.R. He has admitted in the cross-examination that Sarita and her husband used to write letter to them and inform them about their wellbeing. He has admitted that he used to send letters and greetings to accused No. 1. It is also elicited in the cross examination that on 22nd August, 2001 he had been to the house of the accused persons. At that time, accused Nos. 2 to 4 were present and he had halted there for about 5 hours. He has admitted that at that time his sister has not disclosed to him about any ill-treatment meted out to her. He has admitted in the cross-examination that when he had been to the well at 11.30 a.m., chit was with him. He has admitted that he had not told anything about the chit to the police. At that time, although police had enquired with him about the death of his sister, even though he had read the chit, he had not given it to the police. According to him, he was annoyed with the accused when he read the chit. He has further deposed that it was mentioned in the chit that the chit is to be handed over to the police. It is also admitted by him that they have reached the spot before the dead body was removed from the well and thereafter, they had sent Malhari to the police station to lodge the report and pursuant to the report, police had come on the spot. It is also admitted that he had not informed any of the relatives about the disclosure. He had made no disclosure of the chit to anybody who had come to offer condolence. It is further admitted that Malhari had taken the chit to the police station. He had not enquired with Malhari in respect of the chit during 28/8/2001 to 31/8/2001. On 31/8/2001 Malhari had informed that he had handed over the chit to the police but had not disclosed to him about the time when he had handed it over. At the same time, he has deposed that he does not remember whether he told the police at the time of lodging of the complaint that he had given the chit to Malhari.

16. The chit is at Exh. 28. Contents of the same reads as under:

The date mentioned in the chit is illegible. It is written in English note book. In the first portion of Exh. 28, the deceased has signed in Marathi as well as in English and in the second portion she has only given her first name. The handwriting expert has specifically stated that he has not compared the handwriting as far as the English Alphabets are concerned. In fact, it is apparent that the Marathi signature on both the portion is at variance.

17. P.W. 7 Shahaji Shamrao Katkar is the brother-in-law of deceased Sarita. He

was the first person to receive telephonic call from Pandurang Dhole that Sarita had not returned home after she left house. She had left house for answering nature's call. He had specifically admitted in the cross-examination that Malhari and Vikas had brought the police. According to him, the police had not enquired into the death and he had not told about the demand of money. He has admitted in the cross-examination that they went to Shirala for post mortem. From there they went to Mohare. He had discussed with his mother-in-law and brother-in-law and thereafter, Vikas had gone to some advocate.

18. P.W. 8 is Deepali Shivdas Yadav who happens to be niece of Sarita. She has deposed that at the time of death of Sarita, she was at Mohare for school. She has deposed before the Court that Sarita had visited their house at the time of Gauri Ganpati. She went to Ingrul alongwith Vikas. Before leaving for Ingrul she had met P.W. 8. She had taken her by a side and told her that she had kept a chit in her English note book and that she should handover same afterwards to her maternal uncle Vikas. It was only after her maternal uncle had gone to Ingrul after learning about Sarita that Deepali remembered the instructions given to her by Sarita and therefore, she gave the said chit to her grand father Shamrao Nalawade. Deepali had also read the said chit. She has specifically admitted in her cross-examination that police had not asked her for the English note book and that she had not produced before the police. According to Deepali, she had not seen the chit when her maternal uncle i.e. the complainant went to Ingrul. She had not told her grandfather about it at any point of time. Only after she learned from her grandmother that her maternal aunt is not at Ingrul, she remembered about the chit. Vikas had not met her on that date. There are inherent omission and contradictions in her evidence. According to her, she had given the chit to Shamrao at about 7 p.m. when she remembered that her maternal aunt had left the chit in the note book. The very fact of handing over the chit to grandfather Shamrao Nalawade is a material omission in the evidence of Deepali. Police had not shown her chit when her statement was recorded. Another material omission is about Deepali reading the chit. She has admitted that she had not told the police that it is the same chit. Deepali does not claim that she had read the contents of that chit earlier.

19. P.W. 9 Malhari Shamrao Nalavade is the cousin brother of the complainant and the deceased. Deepali was staying with Malhari as she was attending school. He has deposed before the Court that Deepali had given one chit to his father which was handed over to Vikas. Vikas has shown that chit to him. He had read the chit. He has deposed that Sarita had committed suicide on account of ill treatment by parents-in-law, husband and sister-in-law. In the cross examination, he has admitted that he has studied upto M.A. He has admitted that Vikas had come to Ingrul at about 9 p.m. and had shown the chit when they had gone to police station i.e. on 28/8/2001. According to him, on the second day, the chit was given to police. He has also admitted that when he gave information about the death to police, at that time, he had not narrated about the ill treatment to Sarita. He had not told about the chit to the police. He had

also not told the police that Vikas had shown the chit to him and that he had read it. The police had not enquired with him on 29th and 31st as to why he had not shown the chit to police.

20. P.W. 10 Shivdas Yadav is the brother-in-law of Sarita. He has admitted in the cross-examination that he reached to Ingrul prior to arriving of the police. He had seen the chit after arrival of the police. According to him, Vikas had shown the chit to him but had not given chit to police in his presence. He had also not advised Vikas to give the chit. But according to him, he had disclosed the ill-treatment meted to Sarita. He had informed the police that the chit is with Vikas. Vikas had informed him that he would produce the chit before the police on 31st August, 2001. He has also specifically admitted that they had decided what is to be told before the police.

21. P.W. 11 Sumant Namdev Kanale is the ASI who has initially registered A.D. No. 25 of 2001 and then the F.I.R. at the behest of Vikas on 31st August, 2001. He has specifically admitted in the cross examination that he had enquired about the death of Sarita. Nothing incriminating had transpired about the ill-treatment to the deceased. He had not gone to maternal house of Sarita till 31st August, 2001. He has proved the omissions and contradictions in the evidence of the other witnesses.

22. P.W. 12 Dinesh Manohar Katke is A.P.I. He had investigated the case. He had recorded statements of Shahaji Katkar, Ushatai Katkar and Deepali. The complainant had produced chit in the handwriting of the deceased. Accordingly, he had called for the homework note book from the head master of school of deceased. He had prepared the panchanama of the said note book. The panchanama is at Exh. 22. After registration of the offence, he had taken supplementary statement of the witnesses and referred the chit for handwriting expert alongwith note book of Sarita. He has specifically admitted in the cross-examination that the High School has neither produced answer sheet nor the home work note book of 9th standard as per his request but the peon had produced note book which was available with him. He had not recorded the statement of the then head master and had not enquired as to how the custody of the note book had come to him. He had not recorded the statement of Vishwas Pawar nor enquired with the friends of deceased. The complainant had not produced the letters written by the deceased when she was in Bombay. During the investigation, he had learnt that there was repeated demand of amount for purchase of land. But specific amount was not disclosed to him. He has admitted that Shivdas Katkar had not stated before him that Vikas had shown him the chit and he had read it.

23. Perused the records and proceedings. Heard submissions advanced by the learned Counsel for the Appellants and the learned APR At the threshold, it is pertinent to note that the prosecution has failed to prove that the death of Sarita was a suicidal death. The post mortem notes indicate the opinion as to the probable cause of death as "death due to asphyxia due to drowning". The

possibility that it can be an accidental death cannot be ruled out since the scene of offence panchanama also indicates that the parapet wall of the said well was damaged/in broken condition at places. That was a place where most of the villagers used to go for answering nature's call. The incident had occurred in the month of August, which was a rainy season. The brother of the deceased was present at the time of scene of offence panchanama since it was conducted in A.D. No. 25 of 2001. The steps descending in the well were almost at the water level. There were bushes on the western side of the well and some of the branches appeared to be broken. Plastic bucket and the slippers were found near the well. P.W. 1 who is the panch for scene of offence panchanama has categorically stated that people go for answering nature's call in the side of the well and the boundary walls of the well were broken at places. He has also admitted that the incident has occurred in the rainy season.

24. It was incumbent on the prosecution to prove by cogent and unimpeached evidence to prove that the death of Sarita was suicidal. For the purpose of proving the suicidal death, the prosecution has placed implicit reliance upon the chit allegedly written by the deceased which is at Exh. 28. The complainant at one point of time has alleged that even before going to the scene of incident he had been given the chit by his relative. He has not given any plausible explanation as to why the chit was not given to the police at the time of inquest panchanama, scene of offence panchanama etc. He has later on explained that he had given the said chit to his brother Malhari. Silence of the complainant before the police till the initial investigation was completed in the A.D. Enquiry speaks volumes for itself. The demand of Rs. 50,000/- has also not been proved beyond reasonable doubt since there is an omission in respect of the amount that was demanded. He has admitted in the cross examination that on 22nd August, 2001 Sarita had come lastly. The police had enquired with the complainant about his sister deceased Sarita that when the deceased last visited the house of the complainant. There are material omission in the substantive evidence of the complainant. It is pertinent to note that in the cross-examination he has stated that he did not remember whether his brother Malhari met him on 27/8/2001. At this stage, it is pertinent to note that the first report was lodged by Malhari at the police station. He has disclosed to the police that on 21st August, 2001 Sarita had come to her maternal house. On 22nd August, 2001 mother-in-law of Sarita had phoned that father-in-law of Sarita was not well and was hospitalized and therefore, she was summoned to her matrimonial home. Vikas had taken her to her matrimonial home and had dropped her at about 4 p.m. He returned home at about 6 p.m. and at about 8 p.m. relatives were informed by telephonic call that Sarita is not at home as she had left the house on the pretext of answering nature's call. He had further stated that Sarita had taken it to heart that she was summoned immediately on false ground and therefore, has committed suicide. There is no reference to the chit handed over to him or neither a case of 498A was made out in the said complaint. On the basis of the said report A.D. No. 25 of 2001 was registered. Production of chit by

itself is a doubtful.

25. Panchanama of seizure of the chit was conducted on 31st August, 2001 and the said panchanama is at Exh. 49. After lodging F.I.R. on 30th August, the said panchanama was conducted. It appears from the contents of the panchanama that major portion of the said page on which the chit was written was torn. However, the documents which were sent to the handwriting expert were in a proper condition. In fact, the very production of the chit is shrouded with mystery. According to P.W. 6, the chit was with him before he reached the scene of offence. In another breath, he has deposed that the chit was in the custody of Malhari. He has denied that the chit was handed over to him. P.W. 6 has stated before the Court that he had produced the chit of Sarita on the day of lodging the complaint. Assuming that the chit was in the handwriting of the deceased, specimen handwriting was necessary before sending the same to the handwriting expert. It is necessary to refer to Exh. 140 which is a letter written by the Chief Examiner of Documents to the District Court, Islampur wherein the handwriting expert had stated that the greeting card and the handwriting on the envelope were not sufficient for comparing with the handwriting on the chit which was produced by the complainant at the time of lodging of the report.

26. The Hon"ble Apex Court in the case of Smt. Bhagwan Kaur Vs. Shri Maharaj Krishan Sharma and Others, has held that

"in view of the essential features of the case, not much value can be attached to the expert evidence. The evidence of a handwriting expert, unlike that of a fingerprint expert, is generally of a frail character and its fallibilities have been quite often noticed. The courts should, therefore, be wary to give too much weight to the evidence of handwriting expert. In Sri Sri Sri Kishore Chandra Singh Deo Vs. Babu Ganesh Prasad Bhagat and Others, this Court observed that conclusions based upon mere comparison of handwriting must at best be indecisive and yield to the positive evidence in the case."

In the present case since the prosecution has failed to prove the very seizure of the note book at a belated stage, the evidence of the handwriting expert based upon the comparison between the disputed and admitted handwriting does not inspire confidence of the court.

27. There is testimony of the Investigating Officer stating that he had called for the home work note book from the head master of school of deceased and had prepared the panchanama of the said notebook. Panchanama which is at Exh. 22 in respect of seizure of the notebook shows that the peon of Mohare High School namely Vishwas Pawar had produced homework note book of the deceased. The very custody of the note book with Vishwas Pawar is doubtful since it is a home work note book of deceased when she was studying in 10th standard and the first page shows the date 22/7/1997. The deceased had died due to drowning on 28/8/2001. It is surprising that the peon of the said school had kept with him the note book of the deceased of the year 1997.

28. The very fact that the specimen handwriting of the deceased is doubtful, it is difficult to infer that handwriting on the chit was that of the deceased. In these circumstances, the contents of the alleged chit cannot be taken into consideration for holding that the accused had abetted the commission of suicide by the deceased. In any case, the opinion of the expert is only an opinion, even if admissible, it would not be a safe basis for convicting the accused for a serious offence. An expert opinion can be relied upon only if the Court is fully satisfied that the investigating agency had furnished, to the expert, the specific specimen of the scribe for the purpose of verification/examination of the documents. It would be unsafe to record conviction on the opinion of an expert when the very source of the document does not inspire confidence. When the opinion of the handwriting expert is not corroborated in all material particulars, it cannot be relied upon and made a basis for conviction. The production of the chit/notebook itself is shrouded with mystery. The conviction for offence punishable under Section 306 of the Indian Penal Code is recorded on the basis of the chit produced by the first informant to the Investigating Officer at a belated stage, but there is no cogent evidence to establish that the deceased was the scribe of that chit. Hence, it can be safely inferred that the prosecution has failed to establish the guilt of all the accused beyond reasonable doubt for offence punishable under Section 306 of the Indian Penal Code and hence, the appellants in Criminal Appeal No. 1455 of 2011 as well appellant No. 2 in Criminal Appeal No. 56 of 2012 deserve to be acquitted for offence punishable under Section 306 of the Indian Penal Code.

29. On perusal of the evidence on record, it is pertinent to note that there is no cogent and consistent evidence on record to establish that the deceased was subjected to cruelty and ill-treatment at the hands of the appellants in Criminal Appeal No. 1455 of 2011. They deserve to be acquitted of the offence punishable under Section 498A of the Indian Penal Code. The learned Sessions Judge has relied upon the chit to convict the accused for offence punishable under Section 498A of the Indian Penal Code. However, since the prosecution has failed to establish that the deceased was the scribe of the said chit, it is difficult to uphold the conviction of appellants for offence punishable under Section 498A of the Indian Penal Code. Hence, they deserve to be acquitted of the said charge.

30. However, the appellant No. 2 in Criminal Appeal No. 56 of 2012 deserves to be convicted for offence punishable under Section 498A of the Indian Penal Code as there is sufficient evidence to show that the deceased was subjected to ill-treatment at the hands of the appellant No. 2 in Criminal Appeal No. 56 of 2012. However, taking into consideration the fact that the appellant is almost 85 years old, she is sentenced to the period already undergone. This Court has also taken into consideration that the appellant No. 2 has gone through the ordeal of the criminal trial since 2002 and therefore, this Court is inclined to sentence her to the period already undergone. The complainant i.e. P.W. 6 who happens to be the brother of the deceased has categorically stated that his sister had disclosed to him that she was being ill-treated at the hands of her mother-in-law for not

doing domestic course efficiently. That when she had returned on 27th August, 2001 at that time the mother-in-law had told him that if they could not give gifts, they should not take Sarita to their house. It prima facie appears that the deceased was being humiliated at the hands of her mother-in-law. Hence, it can be simply inferred that she would be liable for the offence punishable under Section 498A of the Indian Penal Code. Hence, following order is passed:

CRIMINAL APPEAL NO. 1455 OF 2011

- (i) Appeal is allowed.
- (ii) Judgment and Order dated 18/11/2011 passed by Additional Sessions Judge, Islampur in Sessions Case No. 4 of 2002 is hereby quashed and set aside.
- (iii) Appellants are acquitted of all the charges levelled against them.
- (iv) Fine amount be refunded to the appellants.
- (v) Bail bonds of the appellants stand cancelled.
- (vi) Appeal stands disposed of.

CRIMINAL APPEAL NO. 56 OF 2012

- (i) Appeal is partly allowed.
- (ii) Appeal against appellant No. 1 stands abated.
- (iii) The conviction of the appellant No. 2 for offence punishable under section 498(A) of Indian Penal Code recorded by Additional Sessions Judge, Islampur in Sessions Case No. 4 of 2002 is upheld.
- (iv) Appellant No. 2 is sentenced to the period already undergone i.e. 9 days.
- (v) Sentence of fine is maintained.
- (vi) Appellant No. 2 is acquitted of the offence punishable under section 306 of Indian Penal Code.
- (vii) Bail bonds of appellant No. 2 stand cancelled.
- (viii) Appeal stands disposed of.