



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 885 OF 1998

Ramprakash @ Popat Govind Manohar
 Aged about 24 years, Occu: Service,
 residing at 39/3, Naik Chawl, Bopodi,
 Pune – 411 003
 (At present on bail)

...Appellant

**ANANT
 KRISHNA
 NAIK**

Versus

State of Maharashtra
 (At the instance of Khadki Police Station, Pune)

...Respondent

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 ANANT KRISHNA
 NAIK
 Date: 2025.11.06
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Mr. Pawan Mali i/b. Mr. Deepak More for the Appellant
 Mr. Vinit Kulkarni, APP for the Respondent-State

CORAM : M. M. SATHAYE, J.

RESERVED ON : 12th SEPTEMBER 2025

PRONOUNCED ON : 4th NOVEMBER 2025

JUDGMENT:

1. This Appeal is filed by Original Accused No.1, challenging the Judgment and Order dated 17/11/1998, passed by Additional Sessions Judge, Pune in Sessions Case No. 67 of 1998. By the impugned judgment and order, the Appellant is convicted for offence punishable under section 306 of Indian Penal Code ('IPC' for short) and sentenced to suffer rigorous imprisonment for 3 years and pay fine of Rs.1000/- and in default to pay fine, to suffer rigorous imprisonment of 3 months. The Appellant is also convicted for offence punishable under section 498-A of IPC, however, no

separate sentence is awarded for the same. The Appellant was tried alongwith his mother, Accused No.2 (Shevantabai Govind Manohar), who was acquitted under the impugned judgement and order.

2. I have heard Mr. Mali, learned Counsel for the Appellant and Mr. Kulkarni, learned APP for the Respondent-State.

3. The case of the prosecution, in short, is that Appellant got married to deceased-Rekha on 25/05/1997. After marriage, the Appellant-husband and Accused No. 2-mother-in-law subjected deceased-Rekha to cruelty for bringing money from her parents for the purpose of household expenses and also demanded sewing machine, as a result of which deceased-Rekha committed suicide by jumping into river and drowning, sometime between 13/11/1997 to 17/11/1997. On 13/11/1997, deceased-Rekha left the matrimonial house and missing report was lodged on the same day. On 17/11/1997, dead body of deceased-Rekha was found floating in the river, which was informed to father of the deceased. Thereafter, father of the deceased lodged complaint.

4. The Appellant and Accused No.2, both pleaded not guilty and demanded trial. From the cross-examination of the prosecution witnesses, the defence appears to be that deceased-Rekha was unhappy with Appellant as a husband and matrimonial house, as he was not a good match for her and the marriage was solemnized against her wishes. Another defence appears to be that she had fallen in river accidentally, when she had gone to answer the call of nature.

5. The prosecution examined father of the deceased, Kisan Laxman Ingawale as a Prosecution witness (PW-1). PW-2 – Sanjay Bhimrao Ubale is a neighbour of PW-1. PW-3 – Baby Kisan Ingawale is mother of the deceased-

Rekha. PW-4 – Nunnibai Shankhar Channal, is a co-worker with PW-1 in Pimpri Municipal Corporation who helped PW-1 in purchasing sewing machine. PW-5 – Raju Yashawant Bhise is a Panch witness for seizure panchnama conducted during the search of the Appellant's house. PW- 6 – Satish Shinde is the Investigating Officer.

SUBMISSIONS

6. Learned Counsel for the Appellant submitted that the father and mother of the deceased have made bald and omnibus statements/allegations about the alleged cruelty. That no material particulars are stated about illegal demands. That no material particulars or specifics are stated about alleged ill-treatment. That it is not explained why deceased was unhappy. In short, it is submitted that evidence lacks material particulars about alleged cruelty. He submitted that the element of abetment is not made out. It is further submitted that possibility of deceased – Rekha having desire to have better looking and handsome husband and having better matrimonial house cannot be ruled out. It is submitted that no specific reason for alleged case of deceased – Rekha's weeping is given.

6.1 It is submitted that evidence of co-worker, PW-4 is not at all reliable for proving the case of demand of sewing machine. That it is not proved that such demand was enough to drive deceased – Rekha to commit suicide. It is submitted that Panch witness, PW-5 has turned hostile and therefore, seizure panchanama cannot be relied upon at all. That it cannot be held as proof that sewing machine was found from the Appellant's house. It is then submitted that no person from neighbourhood has been examined in support of alleged case of harassment or cruelty. It is submitted that important lapses are

admitted by the Investigating Officer.

6.2 It is submitted that the Appellant is not shying away in as much as he himself reported the deceased as missing, alongwith necessary details that ornaments were kept at home while going away. It is submitted that necessary ingredients of abetment to suicide and proximity of alleged act with actual event of suicide is not established. It is further submitted that the alleged ill-treatment, as made out from the statement of parents, is not of such nature that would drive a person to commit suicide. It is submitted that ingredients of cruelty u/s. 498-A of the IPC, are not made out. He relied on following judgments in support of his submissions.

(a) M. Mohan vs. State represented by the Deputy Superintendent of police (2011) 3 SCC 626

(b) Sanju Alias Sanjay Singh Sengar vs. State of M.P. (2002) 5 SCC 371

(c) Dnyandeo Pandurang Yadav vs. The State of Maharashtra 2024 NCBHC-AUG 16532

(d) Madan Mohan Singh vs. State of Gujarat & Anr. (2010) 8 SCC 628

REASONS AND CONCLUSIONS

7. I have carefully considered the rival submissions. I have perused the impugned judgment, oral evidence of prosecution witnesses and the statement of the Appellant under section 313 of Code of Criminal Procedure, 1973 ('Cr.PC.' for short)

8. PW-1-father of deceased, has stated in his examination-in-chief that after 2 months of marriage, Rekha used to say that her husband and mother-

in-law claim amount from her for payment of debts and for household expenses. That he used to pay amount to Rekha whenever it was possible and used to express inability when he was unable to pay. That Appellant had asked for sewing machine which PW-1 had provided. He has stated that prior to Diwali of 1997, there was a marriage of a relative, when Rekha and Appellant had come, Appellant had asked for Rs.1000/- which was paid by PW 1. He stated that this amount was paid with a view that Rekha should not be subjected to any harassment. He has further stated that in Diwali on 28/10/1997, he had gone to matrimonial house of Rekha, when Accused No. 2-mother-in-law refused to send Rekha and told that if Rekha wants to go to parent's house, she should return back by herself and nobody from matrimonial house will come to bring her back. It is stated that Rekha was weeping at that time. It is further stated that since Appellant was not at home, PW-1 waited and when Appellant arrived, PW 1 told that he had come to take Rekha for Diwali. Thereupon, Appellant told PW 1 that he may take Rekha to parent's house but nobody from matrimonial house will come to bring her back and PW-1 should bring her to matrimonial house after Diwali. It is then stated that during Diwali, Rekha was unhappy and used to weep. It is then stated that after Diwali, PW-1 took Rekha to matrimonial house.

8.1 PW1 has admitted in cross-examination that he has an ownership flat at Nigdi. It is then stated that Rekha had studied upto 9th standard and was beautiful. She wanted to undertake further education and that she desired that her husband should be good in appearance. He admitted that Rekha expected her husband should have her own house. It is admitted that matrimonial house was situated in the locality of labour and the matrimonial house was a

room of 8' x 10' feet. He has admitted that people in the locality of matrimonial house might be going to the river bank for answering the call of nature. He has further admitted that Appellant was not in permanent service. He admitted that when he visited the police chowki on 13/11/1997, during inquiry from the police, he did not tell the police about any ill-treatment of his daughter and did not say anything about the demands made by Appellant and her mother. He has volunteered that at that time there was no question of giving such complaint because they were searching for Rekha.

9. PW-2, who is a neighbor of PW-1, has stated that on 17/11/1997, he learnt that dead body of a girl is found in the river which was of Rekha. Therefore, he came to Bopodi and confirmed that it was a dead body of Rekha. Thereafter, he went to police station. That after the body was taken out of river with the help of fire brigade and it was sent to Sassoon hospital, on his way to hospital while going in a rickshaw, he found father of Rekha-PW-1 and therefore, he told PW-1 about death of Rekha. This witness is not even cross-examined.

10. PW-3-mother of Rekha, has stated in her examination-in-chief that when Rekha used to come to the parent's house, she used to keep mum and weeping. It is stated that Rekha did not tell why she used to weep. She has stated that at the time of Diwali after marriage, when PW-1 went to bring Rekha, initially permission was refused but ultimately they sent Rekha. It is stated that Rekha used to tell that Appellant and his mother used to demand money. She has stated that after Diwali of 1997, at the time of marriage of a relative, Rs.1000 was paid to the Appellant. It is stated that Appellant had also demanded sewing machine, which was supplied.

10.1 In her cross-examination, PW-3 has admitted that on 13/11/1997, nobody residing in the neighborhood of Appellant complained to her. She has admitted that when police made inquiry after missing report was filed, she did not tell police about Appellant or his mother. She has admitted that after coming to know about death of Rekha, there came suspicion in the mind of PW-3. In the cross-examination, this witness kept mum for a long time after a question was asked whether in order to get the suspicion/doubt removed, the complaint was filed. After keeping mum for a long time, this witness denied that they sought advice of women's organization before lodging the complaint.

11. PW-4 has stated that she is a co-worker with PW-1 who had requested to assist him in purchasing sewing machine. She has stated that sewing machine is purchased from a shop opposite the Municipal Council. She has stated that the sewing machine was carried by PW-1 to his house. She has stated that sewing machine is purchased by PW-1 through her. In her cross-examination, she has admitted that sewing machine was purchased in her name. She has further admitted that in the purchase of sewing machine, nobody else from her family has any concern.

12. PW-5 has been declared hostile and therefore the prosecution was permitted to cross-examine him. He has stated in cross-examination that he does not remember if he put signature on Panchnama after reading its contents. He has denied all the suggestions about going to the house pointed out by PW-1, where a person by name Govind Manohar (father of Appellant) was present or that person gave no objection for search of the house. He has denied suggestion about Panchnama being written on the spot. He has also denied suggestion that he was called in the area where the Complainant PW-

1 was present. He also denied suggestion about PW-1 pointing out to sewing machine, which was given by PW-1 to the Appellant.

13. PW-6 - Investigating Officer has stated in his examination-in-chief that on 17/11/1997 he found the body of Rekha in river of Bopodi. That after the inquest, the body was sent to Sassoon hospital for post-mortem. That parents of deceased identified the body, which was thereafter released. That parents of deceased were informed. That they would give complaint afterwards as they were in grief. That on 18/11/1997, after funeral, parents of deceased came to police station and lodged the complaint. He has identified the complainant. He has stated that on the following day, he recorded statements and attached the sewing machine from the house of Appellant. He has identified the seizure Panchnama. In cross-examination, PW-6 has admitted that Naik Chawl is the locality of persons employed with Naik kiln and the said locality is existing on the river bank, where the houses are not provided with separate latrines and public latrines are available at a distance of about 50 feet from the locality. He has admitted that many residents of the locality go to the river bank for answering the call of nature. He has admitted that he has not recorded statements of any witness or neighbour from the locality where Appellant resides. He has denied suggestion that the complainant had come to lodge the complaint along with persons from women's organisation.

14. From the aforesaid evidence, it is clear that apart from payment of Rs.1000/- in or around Diwali of 1997 during marriage of a relative, there is no other particular available of payment of money to Appellant. It is also clear from the aforesaid evidence that apart from the case of deceased-Rekha being unhappy and weeping during interactions, there is no other specific incidence of physical or mental cruelty stated by any of the witnesses

including PW-1 and PW-3 i.e. parents of deceased. It is also clear that the Appellant's house is situated in an area where there is no individual latrines available and people use common public toilets provided by corporation and also some people visit the river bank for answering the call of nature. In such circumstances, the necessary ingredient of cruelty in the form of conduct of such nature as is likely to drive a woman to commit suicide or harassment of a woman with a view to coercing her or a person related to her to meet unlawful demand for any property or valuable security is not clearly spelt out, much less proved. Mere statements that the deceased daughter used to be unhappy and used to weep is not sufficient to conclude beyond reasonable doubt that there was harassment or conduct of such nature and degree that it will drive a woman to commit suicide. In my view, the evidence on record as indicated above is not sufficient to conclude cruelty as contemplated under section 498-A of IPC beyond reasonable doubt.

15. So far as seizure Panchanama (Exh. 33) is concerned, Panch witness PW-5 has clearly turned hostile and therefore there is no independent witness to support the case of the prosecution that the sewing machine was recovered from the house of the Appellant. Therefore, assuming that the sewing machine is owned by PW-1, father of the deceased, there is no sufficient evidence beyond reasonable doubt to conclude that the sewing machine was given to Appellant as a result of illegal demand or illegal demand of property as a result of harassment.

16. The card (Exhibit-26) issued by Shobha Sales placed on record in support of purchase of sewing machine indicates that it is standing in the name of S. K. Channal. It is material to note that the prosecution has examined PW-4 whose name is Nunnibai Shankhar Channal and not S. K.

Channal. She has stated that sewing machine was purchased in her name at the request of PW 1 who had paid the remaining amount of price of the machine and who had carried it to his house. Therefore, it is even doubtful whether the said sewing machine belonged to PW-1.

17. Section 107 of the IPC provides that a person abets the doing of a thing, who – *First* - Instigates any person to do that thing; or *secondly*, engages with one or more other person in a conspiracy for doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy or *thirdly*, he intentionally aids by any act or illegal omission the doing of such thing.

18. In the present case, there is nothing on record to indicate that the Appellant had instigated deceased-Rekha to commit suicide or had engaged in any conspiracy to push the deceased mentally or physically, in committing suicide. There is also nothing on record to show that Appellant has intentionally aided deceased Rekha in committing suicide. In fact, the Appellant had lodged missing report on the same day (i.e. 13/11/1997) where he had clearly indicated the fact that Deceased – Rekha had left behind her ornaments at home. It is also a fact that during inquiry by the police on the missing report, none of the parents had stated anything about alleged harassment or cruelty by the Appellant.

19. In the aforesaid facts and circumstances, in my view, the Trial Court committed error in holding that there were persistent demands of amounts by Appellant. The Trial Court was also in error to hold that deceased Rekha had realized that her father cannot fulfill such demands every time and therefore, she decided to put an end to her life. The Trial Court has also committed serious error in holding that this is a case which is nothing less

than mental torture amounting to subjecting deceased to cruelty as defined under section 498-A of IPC.

20. As indicated above, there is nothing to sufficiently prove persistent demands. There is nothing to indicate that deceased had any realization about her father not able to fulfill demands. There is also nothing to indicate any mental torture as held by the Trial Court.

21. In the judgment **M. Mohan (supra)** the Hon'ble Supreme Court, while dealing with the case of abetment of suicide, has held that abetment involves mental process of instigating or intentionally aiding a person in doing of a thing and there should be clear *mens rea*. It is further held that it requires commission of direct or active act by accused which led to the deceased to commit suicide seeing no other option and such act must be intended to push the victim into committing suicide.

In the present case, no instance of instigation is attributable to the Appellant and there is also no proximate link between the event of suicide and the alleged demand of money and sewing machine. Therefore, the said judgment directly supports the case of the Appellant.

22. In **Sanju Alias Sanjay Singh (supra)** the Hon'ble Supreme Court was again considering the case abetment of suicide, where in a quarrel between the accused and the deceased, the accused was alleged to have said 'go and die'. In the said case, the deceased was found dead after two days. In such situation, the Hon'ble Supreme Court held that suicide was not proximate to the quarrel and hence, suicide was not direct result of quarrel where the accused used abusive language and told the deceased 'go and die'. In that case, the accused was directly named in the suicide note.

In the present case, there is no suicide note, much less the Appellant being named therein. There is also no quarrel and there is no direct utterances by the Appellant. The present case therefore stands on much stronger footing for the Appellant so far as alleged abetment of suicide is concerned. This judgment also supports the case of the Appellant.

23. In **Dnyandeo P. Yadav (supra)** this Court was considering same Section 498-A r/w. 306 of IPC. In that case there were two allegations and two instances, which were found to be not fitting in the ambit of Section 498A.

In the present case, apart from one incidence of demand and payment of Rs.1,000/- during marriage of relative, there is no instance of demand of money. The case of sewing machine being supplied by PW-1 as a result of harassment is full of doubt and therefore by no stretch of imagination it can be brought in the ambit of Section 498A. This caselaw also supports the case of the Appellant. In the present case also, the allegations are omnibus and general in nature.

24. In **Ramesh Kumar V. State of Chhattisgarh [(2001) 9 SCC 618]**, the Hon'ble Supreme Court has examined various shades of meaning of instigation and has held in paragraph No.20, as under:

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no

other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

[Emphasis supplied]

25. In the aforesaid facts and circumstances, there is sufficient doubt against the case of the prosecution. Therefore, the Appellant deserves the benefit of such doubt. The impugned Judgment and order requires interference.

26. In the aforesaid facts and circumstances and for reasons recorded above, I pass following order:

(A) Criminal Appeal No.885 of 1998 is allowed.

(B) Judgment and order dated 17/11/1998 passed by Additional Sessions Judge, Pune in Sessions Case No. 67 of 1998, convicting and sentencing the Appellant, is set aside. The Appellant is acquitted of all the charges.

(C) The Appellant is directed to execute P.R. Bond in the sum of Rs.15,000/-, within a period of two months, under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 437A of Cr.PC.) to ensure his appearance in case an appeal is preferred.

(D) The appeal is disposed of in above terms.

(M. M. SATHAYE, J.)