

Non-Reportable

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 285 OF 2017

ANANDA BAPU PUNDE @ KOLI

... Appellant

Versus

BALASAHEB ANNA KOLI & ORS.

... Respondents

JUDGMENT**Uday Umesh Lalit, J.**

1. Respondent Nos.1 and 2, husband and mother-in-law of one Poonam were tried for having committed her murder within 7 years of marriage with the Respondent No.1. According to the prosecution, at about 8:00 a.m. on 11.06.2002 a message was received by PW 3 Ananda-father of Poonam that she was missing since previous night, whereafter the father, mother and other persons from the family reached the house of Respondent Nos.1 and 2. On 12.06.2002, the body of Poonam was found in a well. This led to the lodging of FIR Ext.164 by PW 3 Ananda. The Inquest panchanama Ext.13 showed that no injuries were found on the neck, throat or other parts of the

body of said Poonam. According to Post mortem report Ext.14 the cause of death was asphyxia due to drowning. After due investigation, charge-sheet was filed and charges were framed against Respondent Nos.1 and 2 and father of Respondent No.1 (who died during the pendency of the trial) for the offences punishable under Sections 498A, 304B, 306 and 302 read with Section 34 IPC by the Court of Additional Sessions Judge, Ichalkaranji in Sessions Case No.6 of 2005.

2. In support of its case, the prosecution principally relied upon the evidence of PW 3 Ananda-father, PW 4 Sarjerao-brother and PW 5 Shalan-mother of the deceased Poonam. According to their testimony, the marriage had taken place on 05.05.1996 and the couple was blessed with a daughter and a son; that two to three years after the marriage the accused started demanding Rs.50,000/-, refrigerator, sofa set and five tolas of gold by way of dowry and since these demands were not fulfilled, the in-laws of Poonam were harassing her physically and mentally. It was further stated that Respondent No.1 had illicit relation with another lady.

3. The trial court by its judgment and order dated 28.06.2012 acquitted Respondent Nos.1 and 2 of all the charges leveled against them. According to the trial court the death was as a result of drowning and since there were

no marks of any physical injury on the body, the case that Poonam was done to death earlier and thereafter her body was thrown into the well, could not be accepted. As regards demands for dowry and cruelty in respect thereof, the trial court found that the prosecution had completely failed to prove these aspects. It was observed that PWs 3, 4 and 5 had not supported the case of prosecution on material aspects and were in fact declared hostile. The trial court thus observed that none of the charges leveled by the prosecution were substantiated by evidence on record.

4. Being aggrieved, Criminal Appeal No.787 of 2013 was preferred by the appellant i.e. PW 3 Ananda challenging the judgment of acquittal. The High Court after going through the matter was in agreement with the assessment made by the trial court and by its Order dated 13.09.2013 dismissed said Criminal Appeal.

5. This appeal by special leave seeks to challenge the judgments of acquittal rendered by the trial court and the High Court.

6. We have heard the learned counsel and gone through the record.

7. Inquest panchanama Ext.13 and post mortem report Ext.14 show that there were no marks of injury on the body and that the deceased had died as a result of drowning. Thus, the theory that Poonam was done to death

earlier and thereafter her body was thrown into the well, was rightly not accepted by the Courts below. As regards demands for dowry the evidence unfolded through the family members of the deceased namely PWs 3, 4 and 5 is completely sketchy and does not establish the case at all. All these three witnesses were declared hostile. Even according to their testimony the couple lived happily for two to three years and was blessed with two children. Nothing has been established on record as to the demands for dowry and regarding harassment or cruelty. PW 3 Ananda went on to state that two days prior to the incident Poonam had seen Respondent No.1 in a compromising position with another lady. This part was rightly not accepted by the Courts below as amounting to cruelty or harassment enough to bring the case under Section 306 of IPC.

8. In the circumstances the Courts below were completely justified in acquitting the Respondent Nos.1 and 2 of the charges leveled against them. We find no error in their judgments and therefore dismiss the present appeal.

.....J.
(Adarsh Kumar Goel)

.....J.
(Uday Umesh Lalit)

New Delhi,
March 09, 2017