

(2019) 02 SC CK 0356

Supreme Court Of India

Case No: Criminal Appeal No. 719 Of 2011

Shantibai Shrichand Kshyatriya

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision: Feb. 19, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 201, 302, 468A

Hon'ble Judges: Arun Mishra, J; Vineet Saran, J

Bench: Division Bench

Advocate: M.Y. Deshmukh, Manjeet Kirpal, Rameshwar Prasad Goyal, Deepa M. Kulkarni, Nishant Ramakantrao Katneshwarkar

Final Decision: Allowed

Judgement

The appellant has challenged the common impugned judgment and order of conviction dated 15.06.2010 passed by the Bombay High Court in Criminal

Appeal No.472/1992 whereby the High Court allowed the criminal appeal partly and the appellant was held guilty for the offence punishable under

Section 201 read with Section 34 IPC and was directed to suffer sentence of simple imprisonment for two years.

The facts of the case are that on 29.05.1989 Sulochana sister of Laxman Gangaram PW-1 married with accused Baban. At that time accused Baban

was working at Boisar and was staying in the house of the appellant herein as a paying guest. Sulochana stayed with her in laws at village Udapur

Taluka Junar District Pune.

After 6-7 months, Sulochana expressed her desire to go to Boisar and stay with her husband. PW-1 Laxman and his brother told accused Baban to

take his wife at Boisar. However he expressed his inability as he had no accommodation and demanded Rs.20,000/-. Then PW-1 Laxman took

Sulochana to the house of the appellant at Boisar and she stayed there for 25 days and she was brought back to village Udupur by husband. Sulochana

told her brother about the ill treatment and harassment by the husband Baban (accused No.1) and accused No.3 Kisan for demand of Rs.20,000/-. At

that time she told that accused Baban had illicit relations with the appellant. Even then PW-1 Laxman took her to Boisar to the house of the appellant.

On 20.06.1991 Baban informed the police that he took the appellant and her daughter in law Sunita to Awanti hospital at 11 a.m. At that time his wife

Sulochana was alone at the house. When they returned, the door of the house was closed and he broke the door of the house and went inside. He saw

his wife Sulochana dead in the toilet and her body was totally charred.

Baban gave information to the Boisar police station and a case was registered as accidental death and inquiry was initiated. On 22.6.1991 PW-1

Laxman lodged a complaint at Boisar police station against Baban (accused No.1), Shantibai-appellant herein (accused No.2) and Baban's father

Kisan (accused No.3). On the basis of the complaint CR. No.I-68/1991 was registered at Boisar police station under Section 302 read with Section 34

and Section 468A of IPC.

On 20.5.1992 learned VI Additional Sessions Judge, Thane acquitted all the accused including the appellant herein of the charges framed against

them. The learned Sessions Judge held that the prosecution failed to prove its case.

The respondent-State of Maharashtra preferred a Criminal Appeal No.446/1992 before the Bombay High Court for enhancement of sentence. On

3.9.1992 the respondent-State preferred Criminal Appeal NO.472/1992 before the High Court against acquittal and challenging the judgment and order

of conviction dated 20.5.1992 passed by learned VI Additional Sessions Judge, Thane.

The Bombay High Court by its order dated 15.6.2010 in Criminal Appeal 446/1992 (for enhancement of sentence) and Criminal Appeal No.472/1992

(against acquittal) partly allowed the Criminal appeal No.472/1992 against acquittal and the appellant was held guilty for the offence punishable under

Section 201 read with Section 34 IPC and was directed to suffer sentence of simple imprisonment for two years. The appellant herein has challenged

the said common impugned judgment and order of conviction before this Court.

We have heard learned counsel for the appellant at length.

In the facts and circumstances of the case, in our opinion interest of justice would not fail in case we reduce the sentence of two years imprisonment

to one year considering the age of the appellant and facts and circumstances of the case in totality.

The appeal is allowed to the aforesaid extent.