

(2006) 09 BOM CK 0084

Bombay High Court (Aurangabad Bench)

Case No: Criminal Appeal No. 346 of 1995

Supadu Nemade, Sarubai
Nemade and Baban Nemade

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision: Sept. 29, 2006

Acts Referred:

- Evidence Act, 1872 - Section 113A, 32(1)
- Penal Code, 1860 (IPC) - Section 306, 34, 498A

Hon'ble Judges: V.R. Kingaonkar, J

Bench: Single Bench

Advocate: D.G. Chewale, for P.R. Patil, for the Appellant; Umakant Patil, Assistant Public Prosecutor, for the Respondent

Judgement

V.R. Kingaonkar, J.

Appellants named hereinabove are in-laws and husband of deceased Sau.Sangita and were convicted for offence punishable u/s 498-A r/w. Sections 34 and 306 of the Indian Penal Code in Sessions Case No. 18 of 1993 tried before learned 5th Addl.Sessions Judge, Jalgaon. They were sentenced to suffer rigorous imprisonment for one (1) year and to pay fine of Rs. 1,000/- (Rs.1,000/-) (Rs.One Thousand only), in default to suffer rigorous imprisonment for six (6) months for offence u/s 498-A of the Indian Penal Code and further sentenced to suffer rigorous imprisonment for five (5) years and to pay fine of Rs. 1,000/- (Rs.One Thousand only) in default to suffer rigorous imprisonment for six (6) months for offence punishable u/s 306 of the Indian Penal Code. They impugn this order of conviction and sentence.

2. Marriage of appellant No. 3 Baban and deceased Sau.Sangita was performed on 18th May, 1991. She met with unfortunate death in the house of appellants on 8th July, 1992. She was hardly 19/20 years old at the relevant time. Her father received information about her death. So, her father P.W.1-Mitharam (complainant) immediately visited house of the appellants on the same day. He noticed that dead

body of Sau.Sangita was lying in the house, some whitish froth was oozing from her nostrils and blood also appeared to have oozed from her mouth. He immediately went to the concerned Police Station and gave his report alleging that the appellants had subjected deceased Sau.Sangita to cruelty on account of their un-lawful demands for three grams of gold and other articles which were not given to them at the time of marriage as agreed by him.

3. In substance, the prosecution case is that the appellants used to trouble and harass deceased Sau. Sangita on account of no fulfillment of their demand of three grams of gold. They used to express dis-satisfaction about quality of fan and cupboard given in the marriage, saying that they were secondhand and scrap articles. Appellant No. 1 Supadu her father-in-law- some times had assaulted Sau.Sangita under drunken condition. On one occasion her mother noticed an injury caused near her right eye. The inquiry with her revealed that at instigation of appellant No. 2-Sau.Sarubai her husband i.e.appellant No. 1 had beaten her. She narrated that she was beaten up since the three grams of gold was given less in the marriage and the fan and the cupboard given as presentation articles were of inferior quality. The continuous harassment and ill-treatment amounted to coercive cruelty which Sau.Sangita could not bear any more and hence committed suicide by consuming some poisonous substance while she was in the matrimonial home in the relevant morning.

4. The police carried certain investigation in pursuance to the complaint (FIR) lodged by P.W. Mitharam. Inquest was carried out on the dead body of Sau.Sangita. A spot panchanama was drawn at house of the appellants. The dead body was sent for post-mortem examination. Statements of some witnesses were recorded, and, the charge sheet was filed after completion of the investigation.

5. At the trial, the appellants denied truth into the accusation. They denied that deceased Sau.Sangita was subjected to matrimonial cruelty. They denied further that there were un-lawful demands made to deceased Sau.Sangita regarding three grams of gold and that she was harassed due to inferior quality of presented articles such as cupboard and a fan. According to them, they were falsely implicated in the criminal case at behest of their neighbours who were on inimical terms with them.

6. The prosecution adduced oral and documentary evidence in support of its case. In all 9 (nine) witnesses were examined during course of the trial. The learned Addl.Sessions Judge accepted the version of the parents of deceased Sau.Sangita and other witnesses on the question of coercive cruelty. The learned Addl.Sessions Judge held that deceased Sau.Sangita had committed suicide as a result of such coercive cruelty meted out to her and thereby the appellants had abetted the commission of her suicide. Consequently, they were convicted and sentenced as stated at the outset.

7. On behalf of the appellants, learned Counsel Shri D.G.Chewale, invited my attention to the evidence of P.W.Dr.Shaha and submitted that the cause of death could not be ascertained after the post-mortem. He submitted that the death of Sau.Sangita is not proved to be of suicidal nature. He argued that interested versions of parents of deceased Sau.Sangita could not have been relied upon by the trial court. He contended that the vague statements about inferior quality of presented articles could not be regarded as a ground to infer that deceased Sau.Sangita was subjected to cruelty within the meaning of Section 498-A of the Indian Penal Code. The learned Counsel submits that the impugned order of conviction and sentence is improper and un-sustainable. Hence, he urged to allow the appeal and acquit the appellants from the charges. On the other hand, learned A.P.P. Shri Umakant Patil, supported the impugned Judgment.

8. Before I proceed to scrutinise the prosecution evidence, it may be noticed that deceased Sau.Sangita was a young, rustic and healthy woman. She was aged about 19 years at the time of her marriage and 20 years at the time of her death. The marriage was short lived. The appellants are inhabitants of village Moyegaon and complainant P. W.Mitharam is inhabitant of village Ranjani. Both these villages fall under Jamner Tahasil of District-Jalgaon.

9. Though a feeble attempt was made to show that cause of death of Sau.Santiga could not be ascertained and that she might not have committed suicide, yet it is rather difficult to countenance such a contention. The evidence of P.W.6 Dr.Shaha would show that he performed autopsy on the dead body of Sau.Sangita on 09.07.1992. No external injuries were found on her person. P.W.Dr.Shaha testified that Sau.Sangita died as a result of cardiac respiratory failure caused by organic phosphorous substance like poison. The viscera was preserved and sent for chemical analysis. The testimony of P.W.Dr.Shaha lend assurance to the recitals of the post-mortem report (Exh.38) which is an admitted document. Therefore, it will have to be said that the recitals of the post-mortem notes are indicative of correct medical findings. The opinion expressed by P.W. Dr.Shaha is the same which he mentioned against column No. 22 of the post-mortem report which was not challenged in the trial court. It is admitted by P.W. Dr.Shaha that organic phosphorus substance is an ingredient of insecticides which are generally used for agricultural purposes. The Chemical Analyser did not express any opinion regarding the contents of the viscera since the quantity was found to be inadequate. The police seized a small quantity of grains of Urea which is a branded fertilizer, while preparing the spot panchanama (Exh.36). No insecticide was found in the house of the appellants at that time. It is the version of P.W.Dr.Shaha that organic phosphorous substance is not present in the fertilizer called "Urea".

10. The fact that no insecticide was collected from the house of the appellants is hardly of any significance. The spot panchanama (Exh.36) was drawn on 09.07.1992. The death of Sau.Sangita occurred on 08.07.1992 and the appellants had adequate

opportunity to remove the canister of insecticide. Moreover, it is not the case of prosecution that she consumed the insecticide only inside the house. The deceased was well built and young woman as is manifested from recitals of the post-mortem (Exh.38). She was not suffering from any disease. The appellants did not dispute in the trial court that she died a natural death. The inquest panchanama (Exh.38) is an admitted document and would show that whitish froth was oozing from nostrils of deceased Sau.Sangita. Her neck was swollen and her nails were bluish. The medical evidence and the recitals of the inquest panchanama, considered together with the fact that deceased Sau.Sangita was a healthy young woman, would show that her death could not be natural. There is absolutely no material on record to show that deceased Sau.Sangita was suffering from any kind of illness before she had died. Under the circumstances, the only deducible inference is that she met with suicidal death.

11. P.W.1 Mitharam narrated the plight of deceased Sau.Sangita in the matrimonial home. He is a poor agriculturist. He deposed that he had agreed to give 18 gram of gold at the time of marriage to the accused but could give only to 15 grams of gold at that time. His version purports to show that during her visits to his house Sau.Sangita used to complain that all the appellants were harassing her. She informed him that her husband used to beat her and that on one occasion her father-in-law also had beaten her. She used to tell him that her mother-in-law was instigating them and they used to tell her that three grams of gold was given less than agreed, the table fan was secondhand and the clothes given in the marriage by way of presentation were of inferior quality. His version purports to show that he went to house of the appellants on 08.07.1992 when he had received information regarding death of Sau.Sangita. He saw the dead body and immediately went to the police station. His version corroborates the F.I.R. (Exh.40).

12. Cross-examination of P.W. Mitharam reveals that his son Vijay and daughter by name Chhaya had written letters (Exhs.43 to 47) to the appellants. According to him, Sau.Sangita had complained for the first time, about the harassment, when she had visited his house to attend Diwali Festival. His version purports to show that he was unable to provide the three grams of gold due to his critical financial condition. He deposed that Sau.Sangita used to tell him that the appellants were asking her to demand the remaining three grams of gold as her "Stridhan". He also admitted that he had used the table fan which was later on given to the appellants as a present. He admitted the handwriting of Sau.Sangita on the letter (Exh.48) shown to him.

13. Nothing of much significance could be elicited from cross-examination of P.W. Mitharam to dislodge his version regarding the complaints made by deceased Sau.Sangita about the matrimonial cruelty. Much ado was made regarding the letters (Exh.Nos.43 to 48). The brief letters (Exhs.43 to 47) were written by the younger brother and sister of deceased Sau.Sangita to appellant No. 3 Baban in the period between 01.07.1991 to 28.04.1992. They are very formal and casual letters

which would only show that they were keeping rapport with the appellant No. 3-Baban. Secondly, it was not expected that these minor brother and sister of deceased Sau.Sangita could have been informed about her harassment at hands of the appellants. They were innocent teen agrees and were not naturally confided by the elder sister. The letter of deceased Sau.Sangita (Exh.48) was sent before the Deepawali festival and she had urged to depute some one for accompanying her to reach the maternal home for attending the Diwali festival. As mentioned before, it was for the first time during Diwali festival that she had ventilated the complaints about the harassment and ill-treatment. Obviously, the recitals of the afore mentioned letters are not helpful to the defence. The last letter (Exh.48) was not received by the complainant-P.W. Mitharam although it was addressed to him and was written by deceased Sau.Sangita. The appellants had produced it during cross-examination of P.W. Mitharam. It is suggested that although it was written by Sau.Sangita yet it remained to be posted and the appellant No. 3 possessed it because it was handed over to him for putting it in the post box. Thus, it is explicit that the letter was handed over to appellant No. 3 Baban and he had the opportunity to read it before putting it in the post box. So, it was very unlikely that Sau.Sangita would have made any complaint in that letter against appellant No. 3-Baban or the in-laws. Hence, mere production of the letter (Exh.48) by itself would not improbably the prosecution case regarding the matrimonial cruelty.

14. There is evidence of P.W.2 Vimalbai regarding disclosure of an incident of beating by appellant No. 3 Baban to deceased Sau.Sangita. Her version purports to show that she and mother of deceased Sau.Sangita had visited house of the appellants some days prior to her days. Then, she had noticed an injury near eye of Sau.Sangita and hence, asked her how she had sustained such injury. According to P.W.Vimalbai, Sau.Sangita then narrated to them that appellant No. 3 Baban had beaten her and hence she was injured.

15. P.W.3 Chandrakala is mother of deceased Sau.Sangita. Her evidence would show that deceased Sau.Sangita started making complaints that the appellants were dis-satisfied regarding the quality of the fan and cupboard given as presents in the marriage and also had demanded three grams of gold which was not given at the time of marriage. The evidence of P.W.Chandrakala further purports to show that Sau.Sangita informed her that appellant No. 2 -Sarubai used to instigate her husband Baban and thereafter he used to beat Sou. Sangita. Her evidence purports to show that the ill-treatment remained un-abated till death of Sau.Sangita. The evidence of P.W. Chandrakala would show that somewhere before festival of "Akshaya Tritiya" in 1992, she and P.W.Vimalbai had visited house of the appellants. Then they noticed an injury near the eye of Sau.Sangita. So, she inquired about cause of such injury. The version of P.W.Chandrakala reveals that deceased Sau.Sangita was weeping and narrated that at the instance of the mother-in-law, her husband had beaten her. The cause of beating according to Sau.Sangita was the three grams of gold which was less than agreed at the time of marriage and the

inferior quality of the fan and the cupboard. The evidence of P.W.Chandrakala reveals that she had returned to her house after such revelation by Sau.Sangita.

16. There are certain minor omissions in her police statement regarding the exact nature of the complaints made by deceased Sau.Sangita. She admitted that she was accompanying P.W.Vimalbai since both of them had decided to go to Pimpalgaon via Moyegaon but she did not go with P.W.Vimalbai to Pimpalgaon. She explained that she was upset on seeing the condition of Sau.Sangita and hence had returned to house without going further to Pimpalgaon. Her testimony reveals that deceased Sau.Sangita used to visit her house at the time of some festivals. She admits that appellant No. 1 Supadu used to come to take back Sau.Sangita and used to stay with them for a couple of days during such visits. The cousin of appellant No. 2-Supadu resides at village Ranjani. She also admitted that she used to meet relatives of the appellants at their village i.e. Moyegaon.

17. P.W.4 Madhav; is related to appellant No. 1 Supadu and is inhabitant of village Moyegaon. His version purports to show that the appellants used to grumble that three grams of gold was given less than agreed to be given at the time of marriage by father of the deceased Sau.Sangita. They also used to say that the cupboard and the fan were old. He narrated that Sau.Sangita had visited his house at the time of Dashera to pay respects. He states that appellant No. 1 Supadu had beaten Sau.Sangita for the reasons that she had been to his house to pay the respects. He further deposed that he and his brother-in-law by name Dhanraj Tukaram Wagh had tried to convince the appellants but they did not pay any heed. His version purports to show that some days prior to "Akshaya Tritiya", Sau.Sangita had received an injury near her eye due to assault of appellant No. 3 -Baban by means of a nail (Khila). According to him, she had intimated him about such harassment and cruelty meted out to her. He further deposed that in the relevant morning Sau.Sangita was washing cloths while he was going from near her house and then she told him that nothing was certain on that day and he may not see her face again. In the same evening, he learnt about her death. This part of his version appears to improvised. There is material omission in his police statement regarding such utterances of Sau.Sangita in the relevant morning.

18. True, P.W. Madhav had some litigation with appellant No. 1 Supadu regarding an agricultural land. He clearly admitted that there existed certain dispute over the land in or about 1972 and the appellants were acquitted in a criminal case, whereas the civil suit was decided in his favour. He admitted that there was a settlement of the dispute as a result of compromise arrived at between him and appellant No. 1 Supadu. Needless to say, whatsoever dispute existed somewhere in 1972 had ended due to the compromise and hence the existence of animosity could not have continued any further and at least in the year 1992, i.e. 20 years after the said dispute, when the incident of Sau.Sangita's death did occur. Similar is the version of P.W. Pruthaviraj. He is inhabitant of the same village i.e. Moyegaon. His version

purports to show that Sau.Sangita had come to his house on festival of Dashera and then was followed by appellant No. 1 Supadu. According to him, appellant no.1 Supadu gave a stick blow on person of Sau.Sangita and took her away from his house. He stated that deceased Sau.Sangita had narrated to him, on inquiry, that she had sustained injury near the eye due to assault by appellant No. 3-Baban by means of Nail (Khila). There may be some reason for P.W. Prithaviraj to depose against the appellants. Still, however, it can not be said that he is a liar.

19. Giving due concession to the version of P.W. Madhav and P.W. Prithaviraj, at least it can be inferred that Sau.Sangita used to complain about harassment at the hands of the appellants. Both these witnesses had no existing enmity with the appellants. Their cross-examination did not expose any falsehood except a little improvement made by P.W.Madhav regarding utterances of Sau.Sangita which he said to have heard from her in the relevant morning.

20. There is further evidence of P.W. 7 Dhanraj to show that Sau.Sangita was being harassed by the appellants. He deposed that the appellants used to tell Sau.Sangita that her father had given three grams less gold than agreed and had given old fan and cupboard. His evidence reveals that on day of Dashera Sau.Sangita had visited his house to pay respects but returned soon . She was beaten by appellant No. 1-Supadu with a stick. This part of his version is unacceptable since he claims that later on Sau.Sangita narrated to him about the incident of beating by appellant No. 1 Supadu. I mean to say that he has no personal knowledge about such beating to Sau.Sangita by appellant No. 1-Supadu in the context of the said incident of Dashera festival. His version would show that he was on cross-terms with the appellants on account of disputes over approach way leading to agricultural land of the appellants. The way passes through his land and the appellant No. 1 had given an application to Tahasildar for clearance of the approach way. The testimony of P.W. Dhanraj is of no much help to the prosecution.

21. The remaining evidence of the prosecution need not be elaborately discussed. The version of P.W.8 Police Inspector (retired) Shri Bhamber would show that the F.I.R. (Exh.40) was lodged by P.W. Mitharam on the same day of incident i.e. 09.07.1992. He carried out inquest panchanama (Exh.35). Further corroborated the spot panchanama (Exh.36). He recorded statements of witnesses during course of the investigation. The police statement of P.W.Chandrakala contains omission about her visit to house of Sau.Sangita in the company of P.W. Vimalbai. The version of P.W.9 ASI Sonar reveals that the sample of Urea and the viscera were despatched to the Office of Chemical Analyser under letter (Exhs.63 and 64). It is formal evidence and has no bearing on the question of culpability.

22. Learned Counsel Shri D.G.Chewale, holding for Mr.P.R. Patil, for the appellants would rely upon [G.M. Ravi alias G. Purushotham Vs. State of A.P.](#), The facts of the given case are on different footings. In the given case no single witness had stated that he had personal knowledge about harassment of the deceased and the father

of the deceased had stated the demand of money was made on telephone by deceased woman on instigation of her husband. Therefore, such statements were held as outside the purview of Section 32(1) of the Evidence Act. Learned Counsel would further rely upon *Harjit Singh v. State of Punjab* 2006 All MR (Cri.) 250 (S.C.) The Apex Court has held that before invoking the provisions of Section 306 of the Indian Penal Code, it is necessary to establish that: (i) the deceased committed suicide and (ii) she had been subjected to cruelty within the meaning of Section 498-A of the Indian Penal Code. The Apex Court held in the case of "*Harjit Singh*" (supra) that the prosecution was unable to prove that the deceased woman was subjected to cruelty and no case that the deceased committed suicide was made out. With due respects, I find that the facts of the present case are quite different from what were in case of "*Harjeet Singh*" (supra) and hence this authority would be of no much help to the appellants.

23. Further reliance is placed on [Ramesh Kumar Vs. State of Chhattisgarh](#), . The Apex Court held that: "there is no mandatory presumption available u/s 113-A of the Evidence Act." There were letters written by the deceased in that case and in one of the letter the deceased had written that she was ashamed of her own faults and hence was committing suicide. Under the circumstances available in the given case, the Apex Court held that the accused could not be made liable for punishment u/s 306 of the Indian Penal Code.

24. The learned Counsel further relied upon [State of West Bengal Vs. Orilal Jaiswal and another](#), . The Apex Court has observed : "If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty. In the present case there is no material worthy of credence to hold that the victim was hypersensitive and that for other reasons and not on account of cruelty she had lost normal frame of mind and being overcome by unusual psychic imbalance, decided to end her life by committing suicide."

25. I fail to see how this authority is of any assistance to the appellants. Deceased Sau.Sangita was brought up in a poor family and rural area. She was accustomed to hard life. There is no iota of evidence on record to say that she was hypersensitive. It is not the defence of the appellants that due to her hypersensitive nature she had committed the suicide though she was not given mal-treatment by them. Learned Counsel further relied upon [G.K. Devarajulu Naidu Vs. State of A.P.](#), and [Manik Datta Vs. State of Tripura](#), Both these cases stand on different footing and the facts situation of the present case is quite dis-similar to the facts of the cases referred to above. The authorities mentioned above are, therefore, not applicable to the case in

hand.

26. The question of cruelty can not be examined without looking at the attending circumstances. As mentioned earlier, deceased Sau.Sangita had no substantial reason to end her life. The deceased Sau.Sangita was not suffering from any mental deformity and it is not the defence that she laboured under any mental depression due to some extraneous reason which was unconnected with her matrimonial life. The immediate conduct of her father-P.W.Mitharam rules out possibility of fabrication in the F.I.R. (Exh.40). No sooner he saw the dead body of Sau.Sangita, P.W. Mitharam left house of the appellants and approached the police station without loss of any time. The Police Officer carried out inquest panchanama on the dead body on same day at residential house of the appellants. These events, which occurred in a succession and on the same day, are indicative of the fact that the harassment and cruel treatment was given to Sau.Sangita by the appellants. There is corroboration to the version of P.W.Mitharam in the shape of testimony of P.W.Madhav and P.W. Prithaviraj. P.W. Vimalbai has no substantial reason to speak lie. Her evidence is acceptable. Her evidence would make it manifestly clear that deceased Sau.Sangita had sustained a small injury near her eye, some days prior to festival of "Akshya Tritiya" which was before her death, and she had attributed it to the assault by appellant No. 3 -Baban by means of Nail (Khila). The learned trial court has rightly believed the prosecution story in view of such clinching evidence.

27. One can not be oblivious of the fact that P.W. Mitharam is a poor agriculturist, so much so that he was unable to give the demanded three(3) grams of gold and was constrained to give old fan and the cupboard as presentation articles in the marriage. The witness-P.W.Vimalbai and P.w. Chandrakala are illiterate, rustic and poor women. Certain concession will have to be given while appreciating their evidence. Their evidence can not be assessed with mathematical precision. Some improvements and some of the omission in their police statements can not be capitalised so as to discard their version. Considering the evidence on record, and totality of the circumstances obtained in the present case, it can be said that deceased Sau.Sangita was subjected to physical and mental cruelty by the appellants. The minor omissions found in the evidence of prosecution witnesses or embellishments made to some extent can not be capitalised to discredit the core of their evidence. It can not be overlooked that the witnesses gave evidence in the trial court after a gap of about more than three years. The main witnesses are rustic and poor. Therefore, some concession should be given to their capacity of understanding and particularly the faulty of reproducing facts after such gap of more than three years. The trial court had an occasion to see the witnesses and the veracity of their versions could be well appreciated during the course of trial. The findings of the trial court are, therefore, well reasoned and sustainable.

28. The Apex court in case of Sahebrao and Anr. V. State of Maharashtra AIR 2006 SCW 2490 considered the legal aspects of "cruelty and abetment of suicide " which

are ingrained in Section 498-A and 306 of the Indian Penal Code. The Apex court has observed:

When the accused had created difficulty and hostile environment which compelled the married woman to commit suicide then they can be held liable for punishment u/s 306 of the Indian Penal Code.

29. There is presumption u/s 113-A of the Evidence Act, when it is manifest that deceased Sau.Sangita committed the suicide within seven years of her marriage and that she was subjected to cruelty by the appellants. In the present case, the circumstances and the evidence on record, if considered together, would lead to only deducible inference that deceased Sau.Sangita was being harassed and ill-treated due to non-fulfilment of the un-lawful demand for the three (3) grams of gold as well as due to the inferior quality of the gift articles. It follows that she committed the suicide when it was unbearable for her to sustain the cruelty meted out to her in the matrimonial home. Hence, I am in general agreement with the reasoning of the learned trial court and has no hesitation in holding that the appellants have been rightly convicted for offence punishable u/s 498-A and Section 306 r/w 34 of the Indian Penal Code.

30. So far as the question of sentence is concerned, it may be seen that appellant no.1 Supadu was aged about 65 years and appellant No. 2 Sarubai was aged about 58 years at the relevant time. A period of about 13 years has elapsed after the impugned order of conviction and sentence. By now, the appellant No. 1-Supadu has become old aged person of about 78 years and appellant No. 2 too has become quite old of about 71 years. In view of their advance age, some leniency will have to be shown to them. The impugned order of sentence will have to be modified, in keeping with the circumstances and age of the appellants No. 1 and 2, though no modification is required in so far as the sentence awarded to appellant No. 3-Baban is concerned.

31. In the result, the appeal against order of conviction is dismissed. The appeal is partly allowed only to the extent of quantum of sentence awarded to the appellants No. 1 and 2. The conviction of the appellant Nos. 1 and 2 for offence u/s 498-A r/w 34 of the Indian Penal Code is maintained but the substantive sentence of rigorous imprisonment for one (1) years is modified and they are sentenced to undergo imprisonment for the period already undergone by them, raising the fine amount from Rs. 1,000/- (Rs. One Thousand only) each to Rs. 5,000/- (Rs. Five Thousand only) each. They shall undergo sentence of one (1) year each, in default of the payment of the fine. The conviction and sentence in respect of appellant No. 3-Baban for offence u/s 498-A, is however, maintained.

32. The conviction of appellants No. 1 and 2 for offence punishable u/s 306 of the Indian Penal Code is maintained but the sentence of substantive imprisonment is modified and instead of rigorous imprisonment for five (5) years, the sentence for

period already undergone by them is substituted and the fine amount is raised from Rs. 1,000/-(Rs. One Thousand only) each to Rs. 10,000/-(Rs.Ten Thousand only) each. They shall undergo sentence of rigorous imprisonment for one year each, in default of the payment of the fine. The conviction and sentence awarded to the appellant No. 3-Baban is, however, maintained. The appellant No. 3-Baban shall surrender to the bail and the appellants Nos.1-Supadu and 2-Sarubai shall deposit the fine amount within period of four weeks or else shall be taken into the custody for the sufferance of sentence in default. The remaining part of the impugned order regarding disposal of the property is maintained.