

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.601 OF 2021

(Arising out of SLP(Criminal) No.9487 of 2019)

BHAGWANRAO MAHADEO PATIL APPELLANT(S)
VERSUS

APPA RAMCHANDRA SAVKAR & ORS. RESPONDENT(S)

O R D E R

Leave granted.

By this appeal the appellant, who is the complainant/father of the deceased, has challenged the order of the High Court whereby the accused respondents, who are the mother-in-law and father-in-law of the deceased, have been discharged of the offence under Section 306 of the Indian Penal Code, 1860 (for short "IPC").

The brief facts of this case are that Aarti (deceased) was married to Gaurav on 02.01.2016. Within a period of about 15 months, on 02.04.2017, the deceased committed suicide, leaving behind two suicide notes dated 01.04.2017 and 02.04.2017. The complainant/father of the deceased filed an FIR on 03.04.2017 for offences under Sections 304B, 306, 498A, 406, 506 read with Section 34 IPC and under Sections 3 and 4 of Dowry Prohibition Act against the husband-Gaurav and also against the father-in-law and mother-in-law, who are arrayed as respondent nos.1 and 2 in this appeal.

An application for discharge was filed by respondents no.1 and 2 before the Trial Court and by order dated 23.07.2018, Sessions Judge rejected the said application of respondents no.1 and 2. The Sessions Judge, on the basis of the statement of the witnesses and suicide notes, prima facie, found that there was sufficient material on record to frame charges against all the accused. The said order was challenged by respondents no.1 and 2 before the High Court and by order dated 15.04.2019, the High Court partly allowed the Criminal Revision application of the private respondents to the extent that they were discharged of the offence under Section 306 IPC. The High Court found that on the basis of FIR, suicide notes and personal diary, there was evidence to frame charge of the offence of cruelty under the provisions of IPC and Dowry Prohibition Act but there was no material to frame charge under Section 306 IPC. It was also held that in order to attract the provisions of Section 306 IPC, there should be specific material of constituting the offence under Section 107 IPC, which constitutes the offence of abatement and as such, there were no allegations stating that the respondents, who are in-laws, treated the deceased so badly that she took the decision of committing suicide.

On the aforesaid grounds, while maintaining the charges under the other provisions, respondents no.1 and 2 were discharged of the offence under Section 306 IPC. Challenging the said Order, the complainant, thus, filed this appeal. Heard Mr.Sudhanshu S.Chaudhary, learned

counsel for the appellant/complainant, Mr. Shekhar Jagtap, learned counsel for the private respondents no.1 and 2 and Mr. Sachin Patil, learned counsel appearing on behalf of the State of Maharashtra. The submission of learned counsel for the appellant is that once the charges under Section 304B IPC have been framed, the charge under Section 306 IPC could not be deleted because there were suicide notes of the deceased and there were statements of the witnesses, on perusal of which, the in-laws could not have been discharged of the offence under Section 306 IPC. It is contended that though in a given case, where charge under Section 306 IPC is framed, a party could be discharged under Section 304B IPC, but not the reverse. In support of his submission, learned counsel for the appellant has relied upon the decision of this Court in the case of Bhupendra vs. State of Madhya Pradesh - (2014) 2 SCC 106. Per contra, Mr. Shekhar Jagtap, learned counsel for respondents no.1 and 2 submitted that in the suicide notes, there is no allegation against respondents no.1 and 2 and, thus, the said respondents, who are father-in-law and mother-in-law of the deceased, have rightly been discharged of the offence under Section 306 IPC. Learned counsel has relied on the decision of this Court in the case of Gurjit Singh vs. State of Punjab – (2019) 16 SCALE 634.

We have perused the said judgment and find that the same was not a case of discharge but a decision on merits in appeal against the conviction of the accused and, thus, the ratio of the said judgment would not be applicable to the facts of this case. This Court in the case of Bhupendra (supra) has in paragraph 30 held as under: “30. We are, therefore, of the opinion that Section 306 IPC is much broader in its application and takes within its fold one aspect of Section 304B IPC. These two sections are not mutually exclusive. If a conviction for causing a suicide is based on Section 304B IPC, it will necessarily attract Section 306 IPC. However, the converse is not true.

Having heard learned counsel parties, considering the totality of the circumstances and keeping in view the suicide notes as well as the statements of witnesses, we are of the opinion that respondents no.1 and 2 ought not to have been discharged of the offence under Section 306 IPC, especially when the charges under Section 304B IPC and other related sections had already been framed and confirmed.

Accordingly, we allow this appeal by setting aside the order of the High Court while restoring the order of the Sessions Judge.