

VASANT NARAYAN PAWAR

A

v.

STATE OF MAHARASHTRA

December 19, 1979

[V. R. KRISHNA IYER AND R. S. PATHAK, JJ.]

B

*Dying declaration—Relevancy—Even though the deceased has been set fire to by her husband, while making a statement she pleads that her husband should not be beaten—Whether such a request could be converted into one exculpative of the accused—Section 32 of the Evidence Act.*

Dismissing the special leave petition, the Court

C

HELD : The statement by the dying tragic woman that her husband should not be beaten, even though she was dying having been burnt, cannot be converted into one exculpative of the accused. This is a sentiment too touching for tears and stems from the values of the culture of the Indian womanhood. [1210A-B]

*Observation :*

Police sensitisation mechanisms which will prevent commission of crimes like wife burning must be set up if these horrendous crimes are to be avoided. Likewise, special provisions facilitating easier proof of such special class of murders on establishing certain basic facts must be provided for by appropriate legislation. Law must rise to the challenge of shocking criminology, especially when helpless women are the victims and the crime is committed in the secrecy of the husband's home. [1210C-E]

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CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Criminal) No. 2636 of 1979.

E

From the Judgment and Order dated 25-4-1979 of the Bombay High Court in Criminal Appeal No. 822/77.

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*Pramod Swarup (Amicus Curiae)* for the Petitioner.

*H. R. Khanna and M. N. Shroff* for the Respondent.

The Judgment of the Court was delivered by

KRISHNA IYER, J.—Shri Pramod Swarup appearing as *amicus curiae* has presented the case of the accused as effectively as the record permits. Indeed, he has gone to the extent of pressing into service points which do not appear to us to have any force. Moreover, he has tried to persuade us to believe that a dying declaration made by the lady who was burnt to death by the husband-accused—that is the charge on which the trial court and the High Court have found the petitioner guilty—is exonerative of the accused-husband and does not implicate him as the Court has construed. The declarant as she was dying was

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- A** conscious enough to make a statement and in one of the several statements she made, it would appear, she said when her husband was being beaten up that even though she had been burnt, her husband should not be beaten. This is a sentiment too touching for tears and stems from the values of the culture of the Indian womanhood. A wife when she has been set fire to by her husband, true to her tradition, does not
- B** want her husband to be assaulted brutally. It is this sentiment which prompted this dying tragic woman to say that even if she was dying having been burnt, her husband should not be beaten. We are unable to appreciate how this statement can be converted into one exculpatory of the accused. Anyway, we are mentioning these facts only because
- C** Shri Pramod Swarup contended that they were weighty circumstances sufficient to cancel the conviction.

Wife burning tragedies are becoming too frequent for the country to be complacent. Police sensitisation mechanisms which will prevent the commission of such crimes must be set up if these horrendous crimes are to be avoided. Likewise, special provisions facilitating easier proof of such special class of murders on establishing certain

**D** basic facts must be provided for by appropriate legislation. Law must rise to the challenge of shocking criminology, especially when helpless women are the victims and the crime is committed in the secrecy of the husband's home. We hope the State's concern for the weaker sections of the community will be activated into appropriate machinery and

**E** procedure. We dismiss the special leave petition.

S.R.

*Petition dismissed.*