



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 171 OF 2019

Chhaya W/o Subhashrao Sonwane
Age: 37 years, Occu.: Household,
R/o.: Vishwajeeet Colony, Parbhani,
Tq. and District Parbhani.

....Appellant
(Original complainant)

Versus

1. Subhash S/o. Bapurao Sonwane
Age: 43 years, Occu.: Service,
R/o. Undegaon, Tq.Aundha (N),
District : Hingoli.
2. Bapurao s/o Ambadas Sonwane
Age: 65 years, Occu.: Retired,
R/o. Undegaon, Tq.Aundha (N),
District : Hingoli.
3. Sow. Sunita w/o Babanrao Narwade
Age: 41 years, Occu.: Household,
R/o. Darephal, Tq.Basmath,
District Hingolli.
4. Sow. Sangita w/o Ramdas Narwade
Age: 45 years, Occu.: Household,
R/o. Darephal, Tq.Basmath,
District Hingoli.
5. State of Maharashtra
Through New Mondha Police Station,
Parbhani, Tq. and District Parbhani.

.....Respondents
(Ori. Accused)

.....
Shri Jitendra Jain, Advocate for Appellant (Appointed).
Shri Amol S.Sawant, Advocate for Respondent Nos. 1 to 4.
Shri S.M.Ganachari, APP for Respondent No.5.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 09-10-2026
Pronounced on : 12-10-2026

JUDGMENT :

1. In this appeal, there is challenge to Judgment and order dated 10-12-2018 passed by learned Additional Sessions Judge, Parbhani in Criminal Appeal No.91 of 2015 thereby dismissing the said appeal arising out of Judgment and order of acquittal passed by learned Judicial Magistrate First Class (JMFC), Court No.3, Parbhani in R.C.C. No.463 of 2013. Vide both above Judgments, present respondent Nos.1 to 4 have been acquitted from charge under Sections 498-A, 342, 504, 506 read with 34 of the Indian Penal Code (IPC).

2. In brief case of appellant before the learned trial Court was that, she was married to accused no.1 and after marriage, she went to cohabit with husband and her in-laws. She put forth a case that, after delivery of a girl child, husband and father-in-law mal-treated her for not bearing a male child. She claims that, she was driven out of the house and therefore, she went back to stay with her parents. That, during her stay with accused, husband used to beat her and father-in-law used to ask her to bring Rs.1,00,000/- from her parents, if she wanted to reside in the house. She initially lodged a complaint with Women Redressal Cell and later on filed report with New Mondha Police Station, Parbhani, who after investigation, chargesheeted four accused persons i.e. husband and in-laws. As many as ten witnesses

were examined in the trial Court apart from placing reliance on documentary evidence like panchanama and MLC. Said evidence was appreciated and learned JMFC was pleased to acquit the accused. Against it, she preferred appeal before Court of learned Additional Session Judge, who again appreciated the evidence and dismissed the appeal for want of merits. Hence, instant appeal.

3. At the outset, it needs to be mentioned that, this appeal before this Court is of 2019. This Court is in receipt of list of matters including present appeal from the Hon'ble Apex Court for early disposal. Record shows that inspite of service, appellant failed to appear to prosecute the appeal and therefore, in the light of above, this Court was constrained to appoint a counsel for appellant to prosecute the appeal and accordingly, the appeal is heard.

4. Shri Jain, learned counsel for appellant was heard. He took this Court through the testimony of informant PW1 Chhaya, her brother PW2 Subhash, her relative PW5 Rekha, her daughters PW6 Komal and PW7 Naina, neighbour PW8 Shamrao and PW9 Dr.Archana, Medical Expert. He would submit that, appellant had deposed before learned trial Court that after marriage and particularly, after birth of a girl child, there was mal-treatment. That,

husband and father-in-law were upset and annoyed for delivering a girl child as they wanted a male child. He pointed out that, she deposed that, there was beating by husband and she being driven out of the house. He would submit that, even father-in-law putting up demand of Rs.1,00,000/-, if at all informant wanted to stay in the house.

Learned counsel pointed out that, informant has also narrated the incident in which respondent No.1 husband confined her in a room and detained her illegally. That, she was required to free herself by calling her brother. That, such brother has also deposed before the Court to above extent. He submits that, on the count of beating, there was medical evidence. Resultantly, he would submit that, there was convincing evidence on the point of ill-treatment, confinement and threats by both husband as well as father-in-law. However, both learned trial Court as well as First Appellate Court failed to appreciate and consider the same and acquitted accused, he urges to set aside the said judgments by allowing the present appeal.

5. Learned APP for respondent No.5-State also adopted above submissions.

6. Mr.Sawant, learned counsel for respondent Nos.1 to 4 would

submit that, there was no legally acceptable evidence in support of the charges. That, required ingredients for attracting charges are patently missing. That, both learned trial Court as well as First Appellate Court have re-appreciated entire evidence and as prosecution story was not proved beyond reasonable doubt, both learned Courts have rightly acquitted the accused and rejected the R.C.C. and criminal appeal respectively. At the end, he would submit that, there are concurrent findings of two Courts and therefore, said Judgments may not be disturbed or interfered with.

7. Primarily, evidence of informant **PW1** Chhaya, her brother **PW2** Subhash, her sister-in-law **PW5** Rekha, and her daughters **PW6** Komal and **PW7** Naina is of significance. Though prosecution has examined an independent witness **PW8** Shamrao, a neighbour, he seems to have not supported prosecution.

There is no dispute that appellant and respondent no.1 were married. Evidence of informant **PW1** Chhaya is at Exhibit 37. Substance of her testimony is that, she was married to respondent No.1 on 10-05-1997. She deposed that, after demise of her mother-in-law, she was removed from the house by blaming her for the loss of mother-in-law i.e. by considering her as jinx. Though she deposed about beating, harassment and ill-treatment, her FIR is conspicuously

silent on such allegations. She informed that, on 13-12-2011, accused confined her in one room and bolted it from outside and that, she could come out only after her brother come and rescued her, however, this incident does not seem to have reported by her immediately, rather complaint is of 16-12-2011. Though, she attributed beating to husband, specific date, month, time of assault is not stated by her. Moreover, PW9 Medical Officer's evidence, which is at Exhibit 67, is clear about no injury on her person. Moreover, according to Medical Officer complaint was of gastritis. Therefore, allegation of beating is also not substantiated. Here, evidence of PW1 informant is not convincing and worthy of credence and not liable to be straight away accepted without corroboration.

8. Though **PW2** Subhash, brother of informant is examined at Exhibit 42 and he deposed about his sister being beaten and maltreated, and on getting news from neighbour of his sister on 14-12-2011 about confinement of his sister and her children and he accordingly going there and rescuing them, but he is not party to the episode of confinement by accused.

The neighbour PW8 Shamrao has apparently not supported prosecution. Though daughters of informant are examined i.e. PW6 Komal, PW7 Naina, they were minors at that time and they have

deposed as if they have hearsay information about demand and ill treatment.

9. Going by testimony of informant PW1 Chhaya, there seem to be vague and general allegations without specifying any specif instance of mal-treatment. What Section 498-A of IPC contemplates is continuous harassment, but such aspect is patently missing from evidence of informant/appellant. Resultantly, *ex facie* it is emerging that it is complaint due to strained relations between husband and wife. Moreover, there was cohabitation for more than a decade and after relations went strained, initially women Redressal Cell was approached and then above complaint was filed before Police Station. Apart from general, vague and omnibus allegations, there is delayed FIR of which there is no plausible explanation. Hence, as essential requirements for attracting offence are patently missing, learned trial Court and learned First Appellate Court have committed no error in acquitting accused. There are concurrent findings of learned trial Court followed that of learned First Appellate Court. Bearing in mind the principles to be applied while dealing with an appeal against acquittal and finding no merits in the appeal, the same deserves to be dismissed. Accordingly, following order is passed:

ORDER

- I. Criminal Appeal is dismissed.
- II. Fees of the learned counsel appointed to represent Appellant, which is to be paid by the High Court Legal Services Sub-Committee, Aurangabad, is quantified at Rs.10,000/-.

[ABHAY S. WAGHWASE, J.]