



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**919 CRIMINAL REVISION APPLICATION NO. 145 OF 2021**

**Ravindra Rajaram Jadhav  
VERSUS  
The State Of Maharashtra & Anr.**

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Mr. R. V. Gore, Advocate for Applicant.  
Mr. M. A. Aher, APP for Respondent – State.  
Mr. P. K. Palve, Advocate for Respondent No.2.

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**CORAM : SUSHIL M. GHODESWAR, J.**

**DATE : 29 SEPTEMBER, 2026**

**PC:**

1. Heard Mr. Gore, learned counsel for the applicant, Mr. Aher, learned APP, and Mr. Palve, learned counsel appointed by legal aid for respondent No.2.
2. The applicant is challenging the impugned judgment and order dated 29<sup>th</sup> September 2021 passed by the learned Additional Sessions Judge, Aurangabad, in Criminal Appeal No.171 of 2019, wherein the appeal preferred by the applicant challenging the impugned judgment and order dated 19<sup>th</sup> September 2019 passed by the learned Judicial Magistrate First Class, Khultabad, in RCC No. 73 of 2012 came to be dismissed.
3. By the aforesaid impugned judgment dated 19<sup>th</sup> September 2019

passed by the learned Judicial Magistrate First Class, Khultabad, applicant was convicted under Section 452 of the Indian Penal Code and was sentenced to suffer imprisonment for two years, (which sentence was reduced by the Appellate Court to one year), and under Section 354 of Indian Penal Code and was sentenced to suffer rigorous imprisonment for one year.

4. It is the case of the prosecution that the informant has lodged a report stating therein that on 7 January 2009 at about 1.00 hours when she was present along with her husband, the applicant is alleged to have entered their house. He pulled the clothes of informant and outraged her modesty. During the scuffle, the bangles of the informant got broken and the button of her blouse was also broken. On raising shouts, the husband of the informant got awakened and saw the accused-applicant. On the basis of the aforesaid report, the investigating officer registered Crime No.04 of 2009 with Khultabad Police Station for the offences punishable under Sections 452 and 354 of the Indian Penal Code.

5. During the course of investigation, the investigating officer recorded the spot panchanama and also recorded the statements of the witnesses and accordingly filed the charge-sheet. After the applicant pleaded not guilty, the matter proceeded to trial. Vide **Exhibit-17**, charge came to be framed against the applicant. In order to prove its case, the prosecution

examined three witnesses, namely, PW-1 – informant herself, PW-2 – husband of the complainant, and PW-3 – Spot Panch. After recording the aforesaid evidence, the learned Trial Court convicted the applicant for the offences punishable under Sections 452 and 354 of the Indian Penal Code.

6. Feeling aggrieved by the said judgment, the applicant preferred an appeal before the Sessions Court, which came to be registered as Criminal Appeal No.171 of 2019. After hearing the learned counsel for the parties, the learned Appellate Court dismissed the appeal. Hence, the applicant approached this Court under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973.

7. Mr. Gore, learned counsel for the applicant, vehemently submitted that after perusing the testimonies of the witnesses, by no stretch of imagination, the conviction cannot be sustained against the applicant. He submits that the learned Trial Court as well as the Appellant Court have failed to consider the evidence in its proper perspective. He submits that in order to prove its case, the prosecution is required to establish the guilt of the applicant beyond all reasonable doubt, which is a cardinal principle of criminal jurisprudence. He submits that the witnesses themselves have not corroborated each other. Moreover, there are several lacunae in the investigation. As such, the impugned judgments are totally contrary to the evidence brought on record by the prosecution. He therefore submits that

both the judgments, being patently illegal and irregular, be quashed and set aside thereby acquitting the applicant.

8. Mr. Aher, learned APP, vehemently opposed the instant Criminal Revision Application. He submits that the Court is required to see not the quantity of the witnesses but the quality of evidence. Though only three witnesses came to be examined, the quality of evidence is so strong and convincing that it is sufficient to convict the applicant. He has taken this Court through the testimonies of PW-1 and PW-2, who are the complainant and her husband. He submits that the incident took place at midnight and the applicant has been found to have committed the aforesaid offences. His specific conduct of outraging the modesty of the informant was witnessed by her husband. Therefore, there being corroboration of the incriminating act of the applicant, the judgments passed by the learned Trial Court as well as the Appellate Court are absolutely correct and proper and require no interference by this Court. He further submits that the scope of this Court as regards exercising the revisional jurisdiction under Section 397 is very narrow and, there being no illegality or irregularity, this Court may not interfere with the judgments passed by the Subordinate Courts. He further submits that there is also no miscarriage of justice in the judgments passed by the learned Subordinate Courts. Therefore, Mr. Aher strongly opposed the

instant Criminal Revision Application and prayed for dismissal.

9. Mr. Palve, who is appointed for the informant, also strongly opposed the instant Criminal Revision Application. He submits that the incident in question took place in a village that too during the night hours. No women from the rural area would dare to go to the Police Station and face the Police to state that somebody had outraged her modesty. He relied upon the judgment passed by the Hon'ble Apex Court in the case of **Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat**<sup>1</sup>. He further submits that perusal of the testimonies of the witnesses establishes a strong case against the applicant and therefore he prayed for dismissal of the instant Criminal Revision Application. He also reiterated the submissions of the learned APP.

10. After hearing learned counsel for the parties, admittedly, there is a concurrent finding as regards conviction of the applicant under Sections 354 and 452 of the Indian Penal Code. This Court is also aware that when there is a concurrent finding, then the scope of this Court in criminal jurisdiction is very limited and while exercising revisional jurisdiction under Section 397 of the Code of Criminal Procedure, this Court should not interfere with the findings of the Subordinate Courts. However, this does not mean that this Court is precluded from exercising its jurisdiction

1 (1983) 3 SCC 217 : AIR 1983 SC 753

to examine whether any illegality or irregularity committed by the Subordinate Courts.

11. The basic principle as regards the criminal jurisprudence is that the prosecution is required to prove its case beyond all reasonable doubt. Keeping in view the aforesaid principle, this Court has perused the testimonies of PW-1 and PW-2. Both the witnesses are interested witnesses and are related to each other. Their testimonies are therefore required to be scrutinized carefully. In both the testimonies, there appears to be a reference to the presence of the mother-in-law at the relevant time. However, admittedly, the said material witness has not been examined by the prosecution. The non-examination of mother-in-law assumes significance because her evidence could have thrown some light about presence of the applicant.

12. There is also a reference in the statement of PW-1 as regards after the incident when they approached the house of the applicant-accused, they did not find the applicant. However, some relatives of the applicant met them and told the informant to register a crime against him. The testimony of PW-2-husband, however, discloses that after the incident, they followed the informant and when he met the applicant inside the house, the said PW-2 abused him. There being different versions as regards the presence of the applicant in the house or not. Thus, the

testimony of PW-2 – husband, who claims to be eye witness, creates reasonable doubt as regards the conduct of the applicant at the relevant point of time and more particularly, the presence of the applicant in the house is doubtful. The said discrepancy cannot be said to be minor discrepancy when the prosecution case alleges offence under Section 452.

13. The further aspect which is highly vital for the prosecution is the non-seizure of the pieces of bangles or the buttons of the blouse, which is admittedly not seized from the spot. In a case under Sections 354 or Section 452 of the Indian Penal code, it was equally important for the prosecution, in order to establish the guilt of the accused, to seize the aforesaid material from the spot, though the said material is very much reflected in the complaint itself. However, since there is no investigation on the said aspect, it again creates a reasonable doubt. No satisfactory explanation coming from the prosecution as to why the said material was not seized during the investigation.

14. In view of the above, this Court finds that there are several doubts as regards the prosecution case. Therefore, it is found that the prosecution has not established the guilt of the applicant beyond reasonable doubt. As such, the applicant is entitled to the benefit of doubt.

15. The learned advocate for the informant has placed reliance upon

the judgment of the Hon'ble Supreme Court in Bharwada Bhoginbhai Hirjibhai Vs. State of Gujarat, (1983) 3 SCC 217, to contend that the testimony of the victim of sexual assault does not necessarily require corroboration. There can be no dispute with the said proposition. However, the Hon'ble Supreme Court has also held that such principle would apply where the evidence of the victim does not suffer from any basic infirmity and the probabilities-factor does not render the same unworthy of credence. In the present case, as discussed hereinabove, the evidence of PW-1 cannot be considered in isolation, particularly when there are material discrepancies in the evidence of PW-1 and PW-2 regarding the presence and conduct of the applicant, the material witness, namely the mother-in-law, has not been examined, and the articles which, according to the prosecution, would have furnished corroboration to the allegation have not been seized. Thus, this is not a case where the Court is insisting upon corroboration as a rule; rather, the material infirmities and the circumstances emerging from the evidence itself create a reasonable doubt as to the prosecution version. Therefore, the ratio laid down in Bharwada Bhoginbhai Hirjibhai does not come to the aid of the prosecution in the facts and circumstances of the present case. Having said so, admittedly, the Courts below have committed a grave error in law in convicting the applicant for the aforesaid offences. Hence, the following

order:

**ORDER**

- (i) The Criminal Revision Application is allowed.
- (ii) The judgment and order dated 29.09.2021 of the Appellate Court as well as the impugned judgment and order dated 19.09.2019 passed by the learned JMFC convicting and sentencing the applicant for the offences punishable under Sections 452 and 354 of the Indian Penal Code are quashed and set aside.
- (iii) The applicant/accused is acquitted of the offences with which he was charged.
- (iv) The applicant is on bail. His bail bond stands cancelled and the surety, if any, stands discharged.
- (v) The fine amount, if deposited, be refunded to the applicant.
- (vi) The record and proceedings be sent back to the concerned Court.

16. The learned advocate for respondent No.2/ informant is appointed through the Legal Aid. Therefore, he is entitled for fees as per the rules, to be paid by the High Court Legal Aid Services Sub-Committee, Aurangabad Bench.

**(SUSHIL M. GHODESWAR, J.)**