

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

CRIMINAL REVISION APPLICATION NO. 146 OF 2002

Ku. Rita Rameshkumar Rathod,
age 24 yrs., occ. Private ser.
R/o Keluji Tekadi, Juna Mondha,
Nanded, Tq. And Dist. Nanded

...Applicant
[Orig. Complainant]

VERSUS

1] Vinod s/o Laxmikant Gupta,
age 24 years, occ. Private
Service,
R/o Keluji Takadi, Juna Mondha,
Nanded, Tq. and Dist. Nanded,

2] The State of Maharashtra
.....
...Respondent
[Orig. Accused]

Shri S.B.Bhapkar, advocate for applicant
Respondent no.1 absent.
Shri S.A.Ambad, A.P.P. for respondent no.2
.....

CORAM : V.M.DESHPANDE, J.

DATED : 5th February, 2015

ORAL JUDGMENT : -

1] The present Revision is filed on behalf of the first informant Rita Rathod, aggrieved by the judgment and order of acquittal, passed by the learned Chief Judicial Magistrate, Nanded, dated 28.3.2002 in Regular Criminal Case No. 18 of 2000, by which the learned Judge of the trial court was pleased

to acquit respondent no.1 for the offences punishable under Sections 323, 324, 504 of the Indian Penal Code.

2] I have heard Shri S.B.Bhapkar, learned counsel for the applicant and Shri S.A.Ambad, learned Additional Public Prosecutor for respondent no.2/State. Counsel for respondent no.1 remained absent.

3] On the basis of the report, dated 2.11.1999 (Exh.14), a crime was registered against respondent no.1 at police station Vajirabad, Nanded, for the offences punishable under Sections 323, 324, 504 of the Indian Penal Code.

The first information report states that on 2.11.1999 at 7 O' clock in the evening, respondent no.1 came in front of the house of the informant and questioned as to why they are using abusive words to his tenant and he hit the first informant by means of stone resulting into the bleeding injury. That time, her mother Taradevi (PW 2) came there, however, she was also assaulted by respondent no.1 by fist blows. The first information report also states that the incident was witnessed by one Mohan Ganjewar and one Anusayabai.

4] After completion of usual investigation, the investigating officer sent charge sheet in the court of the Chief Judicial Magistrate, Nanded.

Respondent no.1 was charged by the learned Magistrate for the offences punishable under Sections 323, 324, 504 of the Indian Penal Code. Respondent denied the charge and claimed to be tried.

In order to bring home the guilt against the respondent, the prosecution has examined PW 1 Rita the injured, PW 2 Taradevi mother of the first informant, PW 3 Mohan Ganjewar panch, PW 4 Naresh Agarwal panch, PW 5 Dr. Subhash Deshmukh, who has proved the injury certificate of Rita and PW 6 Vishwambhar Suryawanshi the police Head Constable and the investigating officer.

5] PW 3 is Mohan Ganjewar. Though in the first information report it is stated that Mohan has witnessed the occurrence, from his evidence it appears that, he was not examined as eye witness, but he was examined as a panch to the spot panchanama, however, he did not support the prosecution.

6] Another person Anusayabai, whose name appears in the first information report (Exh.14), who, according to the first information report has seen the incident, is not examined by the prosecution.

7] What is important to note is that though the incident is dated 2.11.1999, from the evidence of Dr. Deshmukh (PW 5), it

is clear that he examined informant Rita on 21.11.1999. The injury certificate is at Exh.20. The injury certificate shows lacerated wound 1 cm x 1 cm. Evidence of Dr. Deshmukh shows that the age of the injury is within six hours.

If Rita was assaulted on 2.11.1999, what was the reason for sending the lady to the hospital on 21.11.1999. This fact itself creates serious doubt about the truthfulness of the prosecution case.

Further, though in the first information report, it is stated that Rita suffered bleeding injury, her clothes are not seized.

8] The evidence of PW 1 Rita and Taradevi (PW 2) show that they have made improvement.

9] The learned trial court has assessed the prosecution evidence in its true perspective.

On the afore said evaluation, the view taken by the learned trial court acquitting respondent no.1 appears to be a possible view. In that view of the matter, there is no merit in the Revision. Revision is dismissed.

[V.M.DESHPANDE, J.]