

Criminal Revision Application No.281 Of 2002.

R/o.: Karanjaya, Tal. & Dist. Hingoli. :: **Applicant.**

(2) Keolabai d/o Yaduji Karhale.
Age.: 36 Years., Occ.: Household.
R/o.: Karanjaya, Tal. & Dist.
Hingoli.

:: Non-Applicants.

Mr. B.S. Kudale, Advocate for Respondent No.2 / original accused.

DATE : 5th FEBRUARY, 2015.

Present Criminal Revision Application is directed against the Judgment and Order of acquittal dated 11th July, 2002 passed by the 2nd Ad-hoc Assistant Sessions Judge, Hingoli in Sessions Case No.5 Of 2000 thereby, the learned trial court acquitted Non-Applicant No.2 / accused for the offences punishable under Section.s. 328 read with 511 of the Indian Penal Code.

[2] I have heard Mr. P.S. Agarwal, learned counsel for the Applicant, Mr. V.P. Kadam, learned Additional Public Prosecutor for the State of Maharashtra / Respondent No.1 and Mr. B.S. Kudale, learned counsel for Respondent No.2. With their assistance, I have gone through the Record & Proceedings also.

[3] Present Criminal Revision Application is filed by first informant, who was examined as prosecution witness No.1 in the case.

[4] In short the case of prosecution is as under :-

First Informant – Shaligram and accused Keolabai are resident of village Karanjaya, Tal. & Dist. Hingoli. On the date of incident i.e. on 21st August, 1999 at 9.45 hrs. the grand-daughter of first informant Kumari Rachana was returning from the school. When she reached in front of the house of Rameshlal Jaiswal, the accused Keolabai handed over biscuit which was dowsed with poison. The prosecution case further proceeds that Amol – nephew of the first informant snatched the said biscuit from the hands of Rachana. When the first informant made enquiry with Rachana, she disclosed that one lady has given said biscuit to her. According to the prosecution case, son of first informant Chandrakant was having illicit relations with Keolabai however, he was not interested to continue said relations with her and, therefore, accused in order to cause harm to him handed over poisonous biscuit to his daughter Rachana.

[5] The First Information Report is dated 21st August, 1999 and is at Exhibit - 19. First Information Report was recorded as C.R.No.88/1999 with Police Station, Hingoli. After completion of usual investigation, charge-sheet was filed and case was tried before the learned Ad-hoc Assistant Sessions Judge.

[6] In order to bring home the guilt of accused, prosecution has examined in all seven witnesses. The material witnesses in order to bring home the guilt of accused are PW No.1 Shaligram Shivrul Jaiswal, PW No.4 – Kumari Rachana Chandrakant Jaiswal and PW No.6 – Chandrakant Shaligram Jaiswal. The learned trial court has rightly observed that these witnesses are related to each others however, the learned Judge of court below has rightly kept principle in mind while scrutinizing the evidence of related and interested witnesses.

[7] The first informant is not eye witness. His evidence would reveal that he has made attempt to improve and change his version from time-to-time. The learned trial court has correctly observed that evidence of PW No.4 Amol Jaiswal cannot be accepted since the reaction on his part does not appears to be natural one. Further his presence itself become doubtful in view of the evidence of Investigating Officer PW No.7 – Abdul Salim Abdul Satar Shaikh.

[8] PW No.5 is Rachana. The learned trial court has minutely scrutinized her evidence. I have also gone through the evidence of Rachana -PW No.5. The following from her evidence clearly destroy the prosecution case,

I came to Karanjaya yesterday from Takali Kumbhakarn. I brought from village Takali Kumbhakarn to say about “Biscuit dile hote.” My father, mother and grandfather told me to state that accused Keolabai has handed over biscuit. Today also they have told me to state in the court about the handing over biscuit by the accused. Just now my mother has shown me the accused as - Keolabai. I am seeing accused Keolabai in the court for the first time.

[9] From the aforesaid, it is clear that Rachana – child witness is a tutored witness. She has been told as to what she has to depose before the court in order to implicate the accused. PW No.6 Chandrakant has admitted that he was having illicit relations with the accused however, now he has not visiting terms with the accused. His wife has got the knowledge about his illicit relations.

[10] It clearly shows that, possibility to get rid of Keolabai cannot be ruled out. The learned trial court has correctly assessed and evaluated the evidence brought on record. The view taken by the learned trial court is possible one, in the light of available evidence in the prosecution case. No fault can be located in the order impugned. Hence, Criminal Revision Application is dismissed. Rule discharged.

(V.M. DESHPANDE, J.)