

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

Criminal Revision Application No. 195 of 2003

Balaji s/o. Deorao Mule,
Age ; 35 years,
Occupation : Agriculture,
R/o. Chikhali (Kd.),
Taluka & District : Nanded.

.. Revision Applicant
(Original accused no.1)

versus

The State of Maharashtra.

.. Respondent.

.....

Mr. V.P. Latange, Advocate, for the revision applicant.

*Mr. S.D. Kaldate, Additional Public Prosecutor, for
the respondent - State.*

.....

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 27TH MARCH 2015

ORAL JUDGMENT :

1. Heard Adv. Mr. V.P. Latange for the revision applicant, and the learned APP Mr. S.D. Kaldate for the respondent - State.

2. The applicant herein is convicted for the offence punishable under Section 498A, read with Section 34, of the Indian Penal Code, by the learned 3rd Judicial Magistrate (F.C.), Nanded, in Regular Criminal Case No. 79/1987, vide judgment and order dated 16th June 1997. The applicant

is sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs. 500/-, in default of payment of fine, to undergo rigorous imprisonment for 15 days. Being aggrieved by the said judgment and order, the applicant herein filed Criminal Appeal No. 32/1997 before the Sessions Court at Nanded. The learned Additional Sessions Judge, Nanded, vide judgment and order dated 16th December 2002, has been pleased to dismiss the appeal filed by the present applicant. Hence, this revision application.

3. Such of the facts necessary for the decision of this revision application are as follows :

Kantabai happens to be the legally wedded wife of the present applicant. The applicant had married Kantabai in the year 1983. After marriage, the complainant was demanding golden ring and golden chain. The couple was blessed with one daughter, namely, Nutan. It is alleged, that the present applicant had written a letter to his father-in-law and demanded one golden chain, a golden ring, one fan and tape-recorder. The brother of Kantabai had provided golden ring and 2 *Tolas* golden chain along with the complainant and had partially fulfilled the demand of the applicant. It is the case of the prosecution, that subsequently the applicant had married another lady, namely, Sumanbai and she resided in the same house jointly along with the applicant and Kantabai. That, Kantabai was being harassed. The extent of harassment was such that on one occasion, Kantabai even constrained to attempt suicide.

On 24th June 1987, it is alleged, that the present applicant and the acquitted accused had snatched the infant child from the arms of the complainant Kantabai and had coerced her to give consent for divorce. She

was driven out of the house. Kantabai came to her parental house. On 25th June 1987, she lodged a report at Limbgaon Police Station. On the basis of the said report, Crime No. 50/1987 was registered against the present applicant and the acquitted accused, for the offence punishable under Section 498A, read with Section 34 of the IPC. After completion of investigation, charge sheet was filed on 29th July 1987. The case was registered as Regular Criminal Case No. 79/1987. The prosecution examined four witnesses to bring home the guilt of the accused.

4. It is pertinent to note, that during the pendency of the criminal proceedings, the complainant Kantabai had joined the company of her husband i.e. the present applicant and subsequently the couple was blessed with two more children.

5. The learned Counsel for the applicant submits that although the courts have recorded conviction against the applicant, it can be inferred that the complainant had forgiven the applicant for the illtreatment meted out to her and had joined his company. She had also delivered two children during the pendency of the criminal proceedings. As on today, it can be inferred that they are living a happy married life and, therefore, the applicant deserves to be acquitted.

6. However, taking into consideration the nature of evidence and the fact, that the act / offence was proved against the applicant, this Court is not inclined to record an acquittal in favour of the applicant only because the wife i.e. the complainant had joined his company during the pendency of the proceedings.

7. The learned Counsel for the applicant submits that during the pendency of the enquiry / investigation, the applicant was arrested on 26th June 1987, and was released forthwith by the Judicial Magistrate (F.C.). Thereafter, the applicant was arrested on 28th May 2003 and was enlarged on bail on 11th July 2003.

8. The applicant is sentenced to substantive sentence of six months for the offence punishable 498A of the IPC. The offence has been proved by the prosecution. Taking into consideration the fact, that the revision application is being heard after twelve years and that the complainant is residing with the applicant, this Court is inclined to sentence the applicant for the period already undergone.

9. In the result, the Revision Application is partly allowed.

The conviction of the applicant for the offence punishable under Section 498A of the Indian Penal Code, is upheld. The sentence of fine is maintained. However, the substantive sentence imposed upon the applicant is reduced to the period which he has already undergone. Bail bonds of the applicant stand cancelled.

10. Rule is made absolute in the above terms.

(SMT. SADHANA S. JADHAV)
JUDGE

.....