

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

**Criminal Revision Application No. 213 of 2003**

Sangram s/o. Hanmantrao Honmale,  
Aged : 62 years,  
Occupation : Agriculturist,  
R/o. Sakol,  
Taluka : Shirur Anantpal,  
District : Latur.

.. Revision Applicant  
(Original complainant)

**versus**

1. The State of Maharashtra.
2. Suryakant s/o. Ramchandra Patil,  
Aged : 23 years,  
Occupation : Agriculture.
3. Ramakant s/o. Ramchandra Patil,  
Aged : 21 years,  
Occupation : Agriculture.
4. Ramchandra s/o. Shivappa Patil,  
Aged : 60 years,  
Occupation : Agriculture.

All are resident of Anandwadi,  
U/V. Malegaon, Taluka : Chakur,  
District : Latur.

5. Gangadhar s/o. Rayappa Kamlapure,  
Aged : 55 years,  
Occupation : Agriculture.
6. Sow. Chayabai w/o. Gangadhar Kamlapure,  
Aged : Major,  
Occupation : Household.

.. Revision Application  
dismissed as against  
respondent nos.5, 6,  
7, 8 and 10, as per  
Court's order dated  
15-2-2006.

Both resident of Talegaon (Bori),  
Taluka : Shirur Anantpal,  
District : Latur.

7. Ramakant s/o. Pachappa Mashalkar,  
Aged : 36 years,  
Occupation : Agriculture.
8. Sow. Shivkanta w/o. Ramakant Mashalkar,  
Aged : 28 years,  
Occupation : Household,  
R/o. Shedul, Taluka : Nilanga.
9. Sow. Ratnabai w/o. Ramchandra Patil,  
Aged : 55 years,  
Occupation : Household.
10. Sow. Suvarna w/o. Ramakant Patil,  
Aged : 20 years,  
Occupation : Household.

Both resident of Anandwadi U/V.  
Nalegaon, Taluka : Chakur,  
District : Latur.

.. Respondents  
(Nos.2 to 10 -  
Original accused  
nos.1 to 9)

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*Mr. V.D. Gunale, Advocate, for the revision applicant.*

*Mr. S.D. Kaldade, Additional Public Prosecutor, for  
respondent no.1 - State.*

*Mr. R.P. Bhumkar, Advocate, for respondent nos.2, 3,  
4 and 9.*

*Revision Application dismissed as against respondent  
nos.5, 6, 7, 8 and 10, as per Court's order dated 15-2-2006.*

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**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATE : 31ST MARCH 2015**

**ORAL JUDGMENT :**

1. Heard Adv. Mr. V.D. Gunale for the revision applicant, learned APP Mr. S.D. Kaldate for respondent no.1 - State, and Adv. Mr. R.P. Bhumkar for respondent nos.2, 3, 4 and 9. Revision Application is dismissed as against respondent nos.5, 6, 7, 8 and 10, vide order dated 15th February 2006.
2. Perused the Revision Application and its annexures. Also perused the record & proceedings.
3. The applicant herein happens to be the original complainant in Crime No. 46/2002, registered at Chakur Police Station [District : Latur]. Being aggrieved by the judgment and order passed by the 1st Ad hoc Additional Sessions Judge, Latur, dated 3rd May 2003, in Sessions Case No. 99 of 2002, thereby acquitting the accused / respondent nos.2 to 10, of the offences punishable under Sections 498A, 304B, 306, read with Section 34, of the Indian Penal Code, the original complainant has filed the present revision application.
4. Such of the facts necessary for the decision of the present revision application are as follows :-

On 17th April 2002, Saroja w/o. Suryakant Patil was admitted in the

Civil Hospital at Latur. Her statement was recorded by the Police Officer of Gandhi Chowk Police Station, Latur. She has disclosed before the Police, that on 17th April 2002, when she was cooking, she had sustained accidental burns. The said statement was read over to her and her thumb mark was obtained. The said thumb mark is attested by the Police Officer of Gandhi Chowk Police Station, Latur. At the request of Police of Gandhi Chowk Police Station, Special Executive Magistrate had also recorded statement of the injured. She has reiterated that she sustained accidental burns on 17th April 2002. The injured succumbed to the burn injuries on 23rd April 2002. On 24th April 2002, father of Saroja, namely, Sangram s/o. Hanmantrao Honmale lodged a report at Chakur Police Station, alleging therein that his daughter was harassed and illtreated by the accused for fulfilling demand of one Hero Hondo motorcycle, 5 *Tola* gold chain and one *Tola* golden ring. According to the father of Saroja, it was a case of dowry death. On the basis of his report, Crime No. 46 of 2002 was registered at Police Station, Chakur, against the accused for the offences punishable under Sections 498A, 304B, read with Section 34, of the Indian Penal Code. After completion of investigation, charge sheet was filed. The case was committed to the Court of Sessions and was registered as Sessions Case No. 99/2002. The prosecution examined four witnesses to bring home the guilt of the accused. The accused had examined the Special Judicial Magistrate, Latur, as defence witness.

5. Upon appreciating the evidence adduced by the prosecution, the learned Additional Sessions Judge, Latur, has acquitted the accused of all the charges levelled against them. Prima facie, the case rests upon the dying declaration recorded by the Police Officer of Gandhi Chowk Police

Station as well as the Special Executive Magistrate. The accused have examined the Special Executive Magistrate to prove the contents of the dying declaration which is at Exhibit 38.

6. The case rests upon dying declaration. It is pertinent to note, that in the dying declaration recorded at Exhibit 38, the injured has specifically stated that at the time of recording of the said statement, her mother as well as sister of her husband were present. There was no reason for the injured to be under pressure of the sister-in-law. The very fact, that the injured has not raised any allegation against any of the accused and has specifically stated that she had sustained accidental burns, there was no occasion for the learned Additional Sessions Judge to disbelieve the said dying declaration. It is further pertinent to note, that the incident is dated 17th April 2002. The relatives of the injured had met the injured in the hospital. The injured succumbed to the injuries on 23rd April 2002 and the FIR is lodged after the demise of the injured i.e. on 24th April 2002. In case, the complainant i.e. the present applicant had any doubt about the injuries sustained by his daughter, he could have set the law into motion. However, no action was taken by the relatives of the deceased while she was alive.

7. The learned Additional Sessions Judge has rightly placed implicit reliance upon the dying declaration recorded by the Police Officer as well as the Special Executive Magistrate and has recorded sound and justifiable reasons for acquitting the accused of the charges with which they were charged. The findings recorded by the learned Additional Sessions Judge do not warrant any interference.

8. Hence, the Revision Application, being sans merits, is dismissed. Rule is discharged.

**( SMT. SADHANA S. JADHAV )**  
**JUDGE**

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