

FARAD CONTINUATION SHEET NO.

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

CRIMINAL REVISION APPLICATION NO. 286 OF 2014
[Sou. Sunita Vasishth Thorat vs State of Maharashtra and anr.]

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri V.D.Sapkal, advocate for the applicant
Shri V.D.Godbharle, A.P.P. for respondent

.....

CORAM : V.M.DESHPANDE, J.

DATED : 16th January, 2015

PER COURT :-

1] Heard the learned counsel for the applicant and the learned Additional Public Prosecutor for the respondent/State.

2] Exception is taken by the present Revision to the concurrent findings of fact recorded by both the courts below. The present Revision is filed by the first informant the prosecutrix. In order to bring home the guilt of the accused/respondent no.2, in all three witnesses were examined. They are PW 1 the applicant prosecutrix and two panch witnesses. Though the panch witnesses are on spot panchanama, they turned hostile.

3] There is delay of 9 days in lodging the first information report. According to the prosecutrix, the delay caused, because initially though she approached to the police station, Newasa, the police station authorities refused to accept her first information report, and therefore, she was required to approach to the Superintendent of Police, Ahmednagar and only on the directions given by the Superintendent of Police the first information was recorded by the police authorities of Newasa police station.

4] Pertinent to note, no document is filed on record by prosecution to point out that the first informant approached to the Superintendent of Police. Further, according to the prosecution case, the first information was recorded on the directions given by the Superintendent of Police, Ahmednagar. The said directions could have been filed on record by the prosecution, if really the prosecutrix approached to the Superintendent of Police, Ahmednagar. Such a document is not filed on record.

5] Therefore, in my view, both the courts below have rightly recorded a finding that the prosecution has completely failed to explain the delay of 9 days

in filing the first information report.

6] Further from the evidence of the prosecutrix, at the time of the incident one Bebitai was with her and she intervened in the matter. Thus Bebitai would have been a material witness for corroboration of the evidence of the prosecutrix. For the reasons best known to the prosecution, Bebitai is not examined. Further, even according to the prosecutrix, the incident occurred in front of the house of one Kardile, where according the prosecutrix she had gone to attend the marriage ceremony of son of said Kardile. Even according to the prosecution at the time of the incident, there were so many persons, however, none of the independent witnesses are examined by the prosecution or by the investigating officer. Further, the investigating officer is also not examined by the prosecution in the present case.

7] According to me, all the afore said facts were appropriately evaluated by both the courts below warranting no interference to upset the concurrent findings of fact.

8] Revision dismissed summarily.

[V.M.DESHPANDE, J.]