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

CCRIMINAL REVISION APPLICATION NO. 176 OF 2012

Chandu s/o Ganpati Londhe,
Age: 52 years, Occ: Service
as Head Master,
R/o. Metha, Tq. Aundha Nagnath,
Dist. Hingoli. ..APPLICANT

VERSUS

The State of Maharashtra
through Police Station Basamba,
Dist. Hingoli & anr ..RESPONDENTS

Mr B.S. Kudale, Advocate for applicant;
Mr C.V. Dharurkar, A.P.P. for respondent No.1;
Mr D.M. Shinde, Advocate for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 27th SEPTEMBER, 2016

ORAL ORDER :

In Regular Criminal Case No. 579 of 2008
(Old No. 165 of 2006) respondent No. 2- accused was
prosecuted for an offence punishable under Section
394, 454 of the Indian Penal Code. Learned
Judicial Magistrate, First Class, Aundha (N.), vide
order dated 16th September, 2008 acquitted the
accused of the charge, which was later on confirmed

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in the said appeal being Criminal Appeal No. 13 of 2009 (Old No.28 of 2008) by learned Additional Sessions Judge, Basmathnagar vide order dated 19th July, 2012. As such, present criminal revision application by the original complainant.

2. The facts as are necessary for deciding the present criminal revision application are as under : -

Complainant Chandu alleged that the respondent-accused on 27th August, 2004 assaulted his daughter Sandhya and took away Rs.50,000/- and golden ornaments i.e. patlya weighing two tolas i.e. total worth of Rs.50,000/-. On 29th August, 2004 the complaint came to be filed resulting into registration of Crime No. 71 of 2006 for offence punishable under Sections 394, 454 of the Indian Penal Code.

3. From the spot of incident, the Investigating Officer seized wrist watch and also

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recorded statements of the relatives. The amount of Rs.10,000/- was seized from the accused person under memorandum drawn under Section 27 of the Evidence Act.

4. The charge came to be framed against the accused vide Exhibit-21. The prosecution in support its case examined following witnesses i.e. daughter of informant -injured witness Sandhya (PW-7) at Exhibit-44, wife of informant Shivnanda (PW-8) at Exhibit-47, Sopan (PW-2) panch witness for memorandum of panchnama (Exhibit-35) and recovery panchnama (Exhibit-36) at Exhibit-34, Ganeshrao (PW-3), witness of spot panchnama at Exhibit-38, Tulshiram (PW-4) at Exhibit-40, Popalite (PW-5) at Exhibit-42, Sakharam (PW-6) at Exhibit-43, PW-9 Dr. Lakhmawar, Medical Officer, Civil Hospital, Hingoli at Exhibit-48, who proved medico legal certificate (Exhibit-49) at Exhibit-51, A.S.I. Darade (PW-11) who reduced into writing the report on the narration of the informant (Exhibit-33).

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5. The defence of the accused was that he was falsely implicated in the crime in question and he examined Ganajan, DW-1 at Exhibit-62, Rajesh, DW-2 at Exhibit-64 in support of his acquittal.

6. It is required to be noted from the testimony of the witnesses that the complainant stated that though the incident occurred on 27th August, 2004, he attended the school on 28th August, 2004 i.e. on next date and lodged first information report on 29th August, 2004, which creates doubt as regards happening of the incident in question, as the conduct of the complainant appears to be irrational, he being serving as headmaster in the school. The delay is not at all satisfactorily explained. Rather it is proved by defence witnesses that the amount recovered was out of the sale of soyabean crop and recovery shown to be after period of two years from the accused. PW-9 Doctor's evidence, if analyzed as regards injuries suffered by PW-7 Sandhya, it is not proved that the injuries were caused because of assault by the accused.

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7. It is also required to be noted that mother and father of victim Sandhya have admitted that out of incident of assault on 27th August, 2004, no medical treatment was administered to her, whereas she was taken to Dr. Lakhmawar, PW-9 on 30th August, 2004. Exhibit-49 medical certificate which speaks of fresh injury and certificate is dated 30th August, 2004. Fresh injuries are termed to be caused within 6 to 24 hours of the examination as is reflected in the evidence of said Doctor PW-9.

8. In my opinion, no case for interference in revisional jurisdiction pursuant to concurrent findings of facts recorded by both the Courts below. Criminal Revision Application, as such, lacks merit and stands dismissed.

(N.W. SAMBRE, J.)