

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

**CRIMINAL REVISION APPLICATION NO.30/2016**

Shyam s/o Ramgopal Pandey

..Versus..

State of Maharashtra, through Police Station Officer Wardha

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

**CORAM : Z.A. HAQ, J.**

**DATE : 7.3.2016**

Heard Shri M.P. Kariya, advocate for the applicant and Shri N.S. Khubalkar, A.P.P. for the non-applicant.

The applicant/accused has filed this revision application challenging the order passed by the Sessions Court dismissing the appeal filed by the appellant and maintaining the judgment passed by the learned Magistrate convicting the accused for the offence punishable under Section 354 of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for one year and to pay compensation of Rs.5,000/- to the informant (victim) and in default of payment of compensation to undergo simple imprisonment for six months.

The case of the prosecution is that:

The informant - Sanjivani filed complaint that on 12<sup>th</sup> February, 2010

at about 8 p.m. she was in her house teaching her children, at that time, the accused who is her neighbour, opened the gate, entered the house of complainant, pressed her hand, pulled it and hurled abuses at her. The complainant stated that her mother-in-law Shantabai and Gauri Bhoyar came there on hearing the noise and the accused abused the complainant in their presence also.

On receipt of the complaint of informant - Sanjivani, crime was registered under Section 354, 448, 294 and 506 of the Indian Penal Code. The F.I.R. was prepared, investigation was undertaken and the charge-sheet was filed against the accused. The accused did not accept the guilt and claimed to be tried. The learned Magistrate conducted the trial and by the judgment dated 3<sup>rd</sup> May, 2013 concluded that the prosecution has proved that the accused used criminal force with intention to outrage the modesty of informant - Sanjivani and committed the offence punishable under Section 354 of the Indian Penal Code. The learned Magistrate recorded that the accused committed house trespass and intimidated the informant by threatening her and committed the offence punishable under Section 448 and 506 of the Indian penal Code. The learned Magistrate recorded that the prosecution proved that the accused uttered words with intention to outrage the modesty of the informant - Sanjivani and committed the offence punishable under Section 509 of the Indian Penal Code. The learned Magistrate sentenced the accused, as stated earlier. The accused

being aggrieved by the judgment passed by the learned Magistrate filed appeal which is dismissed by the impugned judgment. The applicant being aggrieved in the matter, has filed this revision application.

Shri Kariya, learned advocate for the applicant has submitted that the subordinate Courts have committed an error in concluding that the applicant is guilty of the offence for which he was charged. It is submitted that the prosecution has failed to establish the intention of the applicant/accused and, therefore, the conviction of the applicant/accused for the offence punishable under Sections 354, 448, 506(1) and 509 of the Indian Penal Code is unsustainable.

With the assistance of the learned advocate for the applicant and the learned A.P.P. I have examined the documents placed on the record of the revision application.

The learned Magistrate has exhaustively considered the evidence of informant - Sanjivani (P.W.1) and Gauri Bhoyar (P.W.2). After assessing the evidence, the learned Magistrate has recorded that the prosecution has established the commission of offence by the applicant/accused. The findings recorded by the learned Magistrate cannot be said to be perverse or unsustainable.

The learned Sessions Judge has also properly exercised her appellate jurisdiction and has independently examined the evidence on the record.

The defence of the applicant is that he had gone to the house of informant - Sanjivani to collect the money towards transport bill which was payable by the informant to the employer of applicant/accused. The applicant has neither produced any documentary evidence nor has examined his employer to substantiate the defence. The subordinate Courts have rightly dealt with this aspect also.

The applicant/accused has not been able to point any illegality in the judgment passed by the subordinate Courts. I do not see any reason to interfere with the judgments passed by the subordinate Courts, exercising the revisional jurisdiction. The revision application is dismissed. In the circumstances, the parties to bear their own costs.

**JUDGE**

Tambaskar.