

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 461 OF 2002

State of Maharashtra	...	Appellant
Vs.		(Orig. Complainant)
1. Pravin Sampat Chavan	)	
2. Sampat Anandrao Chavan	)	
3. Draupadi Sampatrao Chavan	)	
r/o. Rampur, Tal. Patan, at present	)	
at Devipada (E), Borivali, Mumbai-66)		Respondents
		(Orig. Accused Nos.
		1 to 3).

Mr.S.R.Agarkar,APP, for the State/Appellant.
None for the respondents.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 17th May, 2017.

ORAL JUDGMENT :

The State of Maharashtra, being aggrieved by the judgment and order dated 10.10.2001 passed by the Judicial Magistrate, First Class, Patan, in RCC No.79 of 1997, thereby acquitting the accused-appellant of the offence punishable under Sections 498A, 406 read with section 34 of the Indian Penal Code, has filed the present appeal.

2. Such of the facts necessary for the decision of this appeal are as follows :-

One Sangeeta Pravin Chavan lodged a report at the Patan Police Station on 2.6.1997 alleging therein that she is married to respondent No.1 on 1.1.1997. That she was residing in her matrimonial house. Within one week of marriage, her husband and her in-laws started ill-treating her mentally and physically. Her father had gifted her 35 grams. of gold and utensils at the time of marriage. There was a demand for more gold. It is also alleged that her husband had illicit relations with some woman and, therefore, he was ill-treating her. she was fed up of the ill-treatment and, therefore, had been to her maternal house. She had apprehended danger at the hands of her husband. She had stated that her husband is residing at Mumbai. She had requested the police to return the valuables and the gifts given to her at the time of marriage. It was specifically mentioned that she is willing to annul the marriage and that the police should help her for the same. the said report is marked as Exhibit 28. On the basis of the said report, Crime No.52 of 1997 was registered against the accused. After completion of investigation, charge-sheet was filed on 23.7.1997. The case was registered as RCC No.49 of 1997. The prosecution has examined as many as five witnesses to bring home the guilt of the accused.

3. PW-1 Sangeeta is the complainant. She has deposed before the Court that she had filed the report before the police. She has stated in her

deposition that her husband had informed her that he had illicit relations with a girl Vijaya and that he had married to the complainant only to fulfill the wishes of his parents. He had demanded Rs.25,000/- for improvement of his business. She had been to her maternal house and had informed her father about the ill-treatment meted out to her on account of demand. According to her, she was assaulted since her father had not fulfilled the demand. She has also alleged that her in-laws had also ill-treated her as her father had not fulfilled the demand. She had been to Mumbai to cohabit with her husband. That her husband was having a tailoring shop at Mumbai. He had assaulted her on ground that her father had visited her at Mumbai.

4. In the cross-examination, she has admitted that the family of the accused was residing at Mumbai even prior to her marriage and that the grandmother of her husband was residing in the neighbourhood of her father. She has also admitted that she had gone to Mumbai on 8.1.1997. A ceremony was arranged on 10.1.1997. That her husband and father-in-law are working as tailors. She has also admitted in the cross-examination that at Mumbai, her husband had disclosed to her that his father was upset because the quantum of dowry amount was not declared. According to her, her husband had assaulted her in the procession itself at the time of

marriage. She resided with her husband at Mumbai for four months. She had conceived pregnancy and was taking treatment in Siddhnath Clinic and Savitri Clinic at Mumbai. Prior to her marriage, she was working as an agent of Sanchyani Investments. She has also admitted that she had not disclosed to the police that she along with the accused had been to Bondri for fair and that there was a demand of Rs.25,000/-.

5. It is seen from the substantive evidence that there are inherent inconsistencies in her deposition. It is pertinent to note that she has categorically admitted before the Court that she had not cohabited with her husband after 30.5.1997. She has also admitted that she had given a telephonic message to her husband that since he has ill-treated her, she does not wish to continue matrimonial relations and further that she would seek divorce from him. She has also admitted that she was treated properly for about 1-1/2 to two months. It is also admitted that while at Mumbai, she thought it fit to take divorce from husband. That on 3.7.1997, she had given a report to the police alleging that her husband had illicit relations with some girl. It also appears from her evidence that she had deliberated with her family members and thereafter lodged the report.

6. The prosecution has examined the father of PW-1 – Vitthal Balu Mohite who has also reiterated the contention of PW-1. There are

material omissions brought on record in the cross-examination of PW-2 – Vitthal Mohite which goes to the root of the matter. The prosecution has further examined the brother of PW-1 – Shankar Mohite. He has deposed before the Court that his sister had failed 10th Std. examination and only after marriage they learnt that her husband – accused No.1 had failed 4th Std. According to him, he had seen accused No.1 assaulting his sister when they were going to a fair.

7. PW-5 Hombirrao Kanase is the Investigating Officer, who had investigated and filed charge-sheet. He has proved the omissions and contradictions in the substantive evidence of the witness.

8. Upon perusal of evidence, the learned Magistrate has rightly acquitted the accused of all the charges levelled against him. The learned Magistrate has assigned justifiable reasons for acquitting the accused as the guilt of the accused is not proved beyond reasonable doubt. Hence, no interference is called for.

The appeal stands dismissed.

(SMT. SADHANA S.JADHAV, J.)