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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.213 OF 2017

Yasmin Jangli Mulla ..Applicant.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.Ashok B.Tajane for the applicant.

Mr.S.S.Pednekar, APP for the respondent-State.

CORAM: NITIN W.SAMBRE, J.

DATE : FEBRUARY 27, 2018

PC.:-

Heard the counsel for the respective parties.

2. This revision application is by the original complainant who was married to respondent No.2. on November 10, 2006.

3. It is alleged by the applicant that the accused persons demanded dowry of Rs.25,000/- and some gold. As the demand was not fulfilled, she was assaulted on June 10, 2008 resulting into registration of Crime No.67/2008. The charge-sheet came to

be filed against the accused persons on June 14, 2008.

4. The learned Judicial Magistrate First Class, Court No.4, Solapur vide judgment and order dated May 17, 2012 acquitted the accused persons for offences punishable under section 498(A), 504, 506 read with 34 of the Indian Penal Code under section 248(1) of the Code of Criminal Procedure.

5. The applicant feeling aggrieved, preferred Criminal Appeal No.50/2012 before the learned Sessions Judge, Solapur, which came to be dismissed vide judgment and order dated August 19, 2015. Hence this revision application against the acquittal.

6. Mr. Tajane, the learned counsel for the applicant would strenuously urge that medical evidence which was corroborative, was ignored by both the Courts below by citing unsustainable reasons. According to him, the offence in question occurred within a period of two years from the date of marriage and as such, there is a presumption against respondent Nos.2 to 5 which they were required to rebut. He sought interference with a prayer for

conviction of the accused persons.

7. *Per contra*, the learned APP assisted the Court in reading the judgment and evidence and would support the case of prosecution.

8. The prosecution in this case examined three witnesses viz. the complainant PW1 Yasmin at Exhibit-44, PW2 Rehana, mother of the complainant at Exhibit-49 and the Medical Officer Dr.Dattatray at Exhibit-60. The prosecution has produced the complaint at Exhibit-45 and other relevant documents so as to establish its case.

9. The learned trial Court, after analyzing the evidence noticed that the prosecution has failed to establish the charge *qua* sections 498(A), 504 and 506 read with 34 of the Indian Penal Code after appreciating the relevant evidence of the witnesses. The Appellate Court re-appreciated the entire evidence and upheld the findings of the trial Court to acquit the applicants.

10. Having considered both the judgments in detail, what

has emerged from record is, the view expressed by both the Courts below is the most plausible view. Both the Courts have held that the prosecution has failed to establish the case *qua* the offences punishable under section 498(A), 504, 506 read with 34 of the Indian Penal Code. It is also observed that no charge was framed under section 323 and 324 of the Indian Penal Code.

11. The Courts below have considered the material contradictions in the evidence of PW1 Yasmin and PW2 Rehana, her mother. The evidence of PW3 Dattatray speaks about the likelihood of injuries by fall on the ground with rough surface.

12. In the wake of above, in my opinion, no case for interference is made out. The revision application stands dismissed.

(NITIN W.SAMBRE, J.)