

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.615 OF 2016

Sushilabai Khanudas Pagar ...Applicant
V/s.
Kanhudas Yadav Pagar & ors. ...Respondents

Mr.M.N. Sandhyanshiv for the Applicant.

Mr.K.V. Saste, APP for the Respondent-State.

CORAM : SMT.BHARATI H. DANGRE, J.

DATE : 05th SEPTEMBER 2018

P.C.:

1. The present Revision Application is filed by the applicant challenging the order passed by the Additional Sessions Judge, Nashik, by which the order passed by the Judicial Magistrate First Class, Kalwan, District-Nashik in Miscellaneous Application No.115 of 2010 has been reversed. The Additional Sessions Judge entertained the appeal filed by the husband and three other relatives.

The Judicial Magistrate by the impugned order had directed the appellant No.4 to return the mani mangalsutra of 6 grams gold and some other gold items to the respondent within one month from the date of the order.

2. The allegations made by the applicant before the Trial Court is that on 29.12.2009 when she was proceeding towards the weekly market along with her sister-in-law, the original respondent No.5 assaulted her and also removed her mani mangalsutra and other ornaments. She had also cited four eye witness and the application proceeded to state that these eye witnesses came to her rescue and pursuant to the incident she filed an application before the Police Station and alleged that the ornaments, i.e. her "Stridhan" was taken away by the respondents and she came back.

2. The Judicial Magistrate First Class on considering the evidence brought on record allowed the said application and directed the return of the said ornaments including the mani mangalsutra.

Being aggrieved by the said order the Appeal filed before the Additional Sessions Judge by husband. The Additional Sessions Judge analysed and appreciated the entire evidence brought on record by the Trial Court and categorically recorded that though the eye witness have been

roped in. On the perusal of the complaint which was filed before the police, on 29.12.2009 there is no mention of mani mangalsutra and other ornaments. She has also admitted this fact in cross-examination and has stated that it was not mention in her Original Application that the said ornaments were removed from her person. Admission given in the cross-examination and on perusal of the complaint reveals that there was no mention of she being robbed these ornaments is what the Additional Sessions Judge, Nashik, has concluded.

The Appellate Court has also arrived at a conclusion that the Trial Court did not properly appreciate the oral evidence brought on record and has erroneously allowed the application directing the appellant No.4 to return the ornaments. Resultantly, the Additional Sessions Judge quashed and set aside the order passed by the Judicial Magistrate.

3. On perusal of the entire complaint as well as the first information report and the order passed by the JMFC and Additional Sessions Judge, I am of the clear opinion that the Additional Sessions Judge rightly appreciated the evidence

brought on record. The impugned order dated 13.07.2016 has rightly records that when there is no mention of the said incidence of robbing of ornaments in the complaint dated 29.12.2009 and if the entire proceedings have proceeded on the basis of this complaint where this fact is conspicuously absent, even examining independent witnesses and stating that these witnesses are the eye witness would not be of any assistance to the present applicant. No legality or perversity is found in the impugned order.

4. Hence, present application is liable to be dismissed and accordingly it is dismissed.

Nilam
Santosh
Kamble

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(SMT.BHARATI H. DANGRE, J.)