

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

CRIMINAL REVISION APPLICATION NO.246 OF 2005

Sushilabai w/o.Jankiram Bondphade,
Age: 55 years, Occu. : Nil,
R/o. Ajijyanagar, Tq.Pathri,
Dist. Parbhani. **..APPLICANT**

VERSUS

State of Maharashtra. **..RESPONDENT**

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Mr.K.M.Nagarkar, Advocate for the applicant.
Mr.A.P.Basarkar, Additional Public Prosecutor
for the respondent-State.

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CORAM: V.M.DESHPANDE, J.

DATE : 11.04.2019

ORAL JUDGMENT:

1] Heard Shri K.M.Nagarkar, learned
counsel for the applicant and Shri
A.P.Basarkar, learned Additional Public
Prosecutor for the respondent-State, and also
perused the record and proceedings with their
able assistance.

2] The applicant was prosecuted for the offence punishable under Section 420 of the Indian Penal Code on the allegation that she cheated the complainant Sitabai by giving false promise that she will provide employment and demanded Rs.14,000/- from her. The said amount was received, however, since the job was not provided a crime was registered against the present applicant, vide Crime No.69/1993.

3] The charge-sheet was culminated into the Regular Criminal Case No.158 of 1993 and was tried by the learned Judicial Magistrate First Class, Court No.2, Pathri, District Parbhani. During the course of trial, the prosecution examined in all six witnesses, including the first informant – Sitabai [PW-1], she proved the complaint at Exh.66, her son Ramdas was also examined as PW-2, another victim Chandrakalabai PW-3, Mandabai

PW-5 and Laxmibai PW-6 were also examined. After full-fledged trial, the Court found that the defence of the present applicant that, she was falsely implicated and the said defence was not accepted, and by the judgment and order of conviction dated 30.01.2002 convicted the applicant for the offence punishable under Section 420 of the Indian Penal Code and directed to suffer rigorous imprisonment for six months and to pay fine amount of Rs.1500/- and in default to suffer simple imprisonment of one month. The learned Judge also directed the applicant to deposit Rs.14,000/- as a compensation to the first informant, namely, Sitabai w/o. Balaji Phulari [PW-1].

4] Felt aggrieved thereby, the applicant filed an Appeal bearing Criminal Appeal No.12/2004 before the learned Additional Sessions Judge, Gangakhed and the learned Additional Sessions Judge, Gangakhed

on 29th July, 2005, dismissed the said Appeal and confirmed the judgment and order of conviction.

5] After dismissal of the aforesaid Appeal, the applicant was taken into custody. In the Revision itself, prayer was made to release her on bail. On 10th August, 2005, the record and proceedings was called by this Court, and ultimately, vide speaking order dated 30th September, 2005 [Coram : S.P.Kukday, J.] released the applicant on bail, since the applicant has already deposited the compensation amount.

6] After hearing the learned counsel for the applicant and learned Additional Public Prosecutor for the respondent-State, I could not locate any fault with any of the judgments and orders impugned in this Revision. Therefore, the Revision is required to be dismissed, by upholding the judgment

and order of Courts below. However, leniency can be shown in favour of the present applicant in so far as quantum of sentence is concerned.

7] The applicant was taken into custody after dismissal of the Criminal Appeal No.12/2004, by the learned Additional Sessions Judge, Gangakhed, on 29.07.2005 and thereafter the applicant was granted bail by this Court on 30th September, 2005. Thus, the applicant was in jail for about two months. The punishment was imposed upon the applicant is 6 months. Thus, considerable period the applicant has already undergone in the jail.

8] Looking to the age of the applicant, in my view, leniency can be shown in favour of the applicant. Consequently, I pass the following order :

ORDER

i] The Revision Application is partly allowed.

ii] The judgment and order dated 30.01.2002 passed by the learned Judicial Magistrate First Class, Court No.2, Pathri in Regular Criminal Case No.158 of 1993 and the judgment and order dated 29.07.2005 passed by the learned Additional Sessions Judge, Gangakhed in Criminal Appeal No.12 of 2004 stand confirmed. However, the order of sentence is modified, as under:-

[a] The applicant is sentenced to suffer rigorous imprisonment for the period which she has already undergone in jail in stead of 6 months.

iii] Bail bond stands cancelled.

iv] Rule is made absolute on above terms. The Revision Application stands disposed of, accordingly.

[V.M.DESHPANDE]
JUDGE

DDC