

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

CRIMINAL APPEAL NO.928 OF 2004

The State of Maharashtra	)	Appellant
		(Org.Complainant)
V/s.		
1) Dhanpal Shivmurti Koravi	)	
Age-28 years, R/o Gajare Galli	)	
Hupari, Tal.Hatkanangale	)	
2) Sou.Akkatai Shivmurti Koravi	)	
Age-48 years, R/o. Gajare Galli	)	
Hupari, Tal.Hatkanangale	)	
3) Vinayak Shivmurti Koravi	)	
Age-33 years, R/o. Gajare Galli	)	
Hupari, Tal.Hatkanangale	)	
4) Subhash Shivmurti Koravi	)	
Age-30 years, R/o. Gajare Galli	)	
Hupari, Tal.hatkanangale	)	
5) Sou.Mangal Vinayak Koravi	)	
Age-28 years, R/o Gajare Galli	)	
Hupari, Tal.Hatkanangale	)	
6) Sou.Kanchan Subhash Koravi	)	
Age-25 years, R/o Gajare Galli	)	
Hupari, Tal.Hatkanangale	)	Respondents
		(Org.Accused nos.1 to 6)

Ms.Pallavi Dabholkar for appellant-State.

Mr.P.D.Dalvi for respondent nos.1 to 6.

CORAM : K.R.SHRIRAM,J

DATE : 24.2.2020

ORAL JUDGMENT:-

1. This is an appeal impugning an order and judgment dated 20.5.2004 passed by the Judicial Magistrate First Class, Ichalkaranji acquitting the accused of offences punishable under sections 498-A (*Husband or relative of husband of a woman subjecting her to cruelty*), 323(*Punishment for voluntarily causing hurt*), 504 (*Intentional insult with intent to provoke breach of the peace*) read with section 34 (*Acts done by several persons in furtherance of common intention*) of the Indian Penal Code (IPC).

2. Complainant-Surekha Dhanpal Koravi (PW-1) got married to accused no.1 on 5.5.2002. The grievance of complainant was that when she got married to accused no.1, father had given bed, marriage string of gold (mangalsutra) weighing ½ tola and gold ornaments and other household articles. PW-1 also spent Rs.70,000/- on wedding. For 3 months after marriage, everything was fine but thereafter the accused started ill-treating complainant asking her to bring necklace of gold weighing 4 tolas and laminate sheet wood bed and also demanding Rs.1,00,000/- for purchase of land. According to complainant, accused no.1 was not even provided food and was made to do menial work in the field. It is also alleged that accused no.1 was demanding divorce from her. When she refused, she was beaten.

3. In his cross-examination PW-1 admits that nobody from the family of the accused used to go to field for any work and in fact they did not even own any land. Therefore, the accused were forcing complainant to go to the field to do menial work is not believable. As nobody is going to field for work as they did not have any field, the question of accused keeping complainant without food would also not be believable.

4. Complainant stated that there was an agreement entered into at the time of marriage between two families. Though it was brought on record by complainant, prosecution did not make any attempt to prove it. On the contrary, the accused got it exhibited as Exh.31 by proving the documents. From that it appears that it was decided between the parties that each one will give the other one coconut, one piece of turmeric and some kumkum and that is all. Marriage expenses will also be shared equally. In such a case it is difficult to believe the case of complainant that complainant's father incurred Rs.70,000/- and gave articles as stated in the complaint. Evidence of PW-1 does not inspire confidence.

5. Pandurang Mayappa Koravi-PW-4 was also called to give evidence regarding the iron bed and laminate sheet bed. PW-4 also

says he does not know whether any iron bed was brought by the father of complainant and he was not present when the bed was shifted. As a last nail in the coffin PW-4 also says that he was giving evidence on the advise of one Mrs.Desai who is President of Mahila Dakshata Committee. There are so many contradictions and omissions and I cannot find fault with the impugned judgment.

6. Learned APP Ms.Dabholkar in fairness concurred with the view of this Court.

7. There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless they are proved guilty by a competent court of law. Secondly, the accused having secured their acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the trial Court which rightly observed that the prosecution had failed to prove its case. The order of the trial Court of acquittal, in my view, need not be interfered with.

8. Appeal dismissed.

(K.R.SHRIRAM,J)