

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

CRIMINAL REVISION APPLICATION NO. 372 OF 2004

Sow. Varsha w/o Sunil Gade,
Age : 21 years, Occu. : Household
R/o. Limbonibag, Tambri area, Osmanabad .. Applicant

Versus

1. The State of Maharashtra
2. Sunil Bansi Gade
Age : 38 years, Occu. : Service
3. Bansi Narayan Gade
Age : 68 years, Occu. : Pensioner
4. Anil Bansi Gade
Age : 30 years, Occu. : Unemployed
5. Akshay Bansi Gade
Age : 28 years, Occu. : Education
6. Kamalabai Bansi Gade
Age : 58 years, Occu. : Household

All r/o. Sanja Raod, near sub-station,
Osmanabad, Tq. & Dist. Osmanabad .. Respondents

Ms. Priti Wankhede, Advocate for the Applicant (Appointed).
Mr. S. P. Tiwari, APP for Respondent No. 1.

CORAM : BHARAT P. DESHPANDE, J.

DATED : 17th AUGUST, 2022.

ORAL JUDGMENT :-

1. Rule was issued on 20.06.2006.

2. Heard learned counsel for the applicant and the learned APP for the State.

3. The present revision is filed by the applicant/complainant challenging the judgment passed by the learned Chief Judicial Magistrate dated 29.06.2004. The learned Chief Judicial Magistrate, Osmanabad acquitted all the respondents for the offences punishable under Sections 498-A, 504 r/w Section 34 of the Indian Penal Code in Regular Criminal Case No. 392/2001.

4. Learned counsel for the applicant submits that the learned Magistrate failed to consider the evidence of the complainant, her father and one witness and arrived at wrong conclusion. The observations of the learned Magistrate are therefore perverse and required to be quashed and set aside. He submitted that, the State failed to file appeal against the impugned judgment and therefore, the applicant is before this Court.

5. The learned APP supported the findings of the Trial Court.

6. I perused the entire record and more specifically the depositions of the complainant, her father and PW-3 who is neighbour of the complainant. PW-4 is the Police Officer who registered the offence on the basis of complaint filed by the applicant.

7. The complaint was lodged on 04.11.2001 claiming that the respondent has ill treated and demanded an amount of Rs. 45,000/- for the purpose

of construction of house. The learned counsel for the applicant also claimed that the complainant lodged her complaint with Mahila Takrar Nivaran Manch wherein, compromise was arrived at between the parties and then the complainant started cohabiting with her husband. However, after few days, she was driven away. Therefore, she lodged the complaint which was registered vide Crime No. 221/2001.

8. On perusal of depositions of the complainant and her father, it is observed that there are improvements, contradictions and omissions which create dent in the testimony of such witnesses and found to be unreliable. The learned Magistrate while appreciating evidence of these witnesses came to the conclusion that such evidence of the complainant and her father cannot be believed for the purpose of proving case of the prosecution.

9. It is well settled that while considering the revision under Section 401 of the Code of Criminal Procedure, powers of this Court are very limited. It is not permissible to re-appreciate the evidence of the prosecution witnesses. Limited scope while entertaining revision is only if findings are perverse and against the settled proposition of law. No material has been shown while arguing the present revision application to point out the aspect of illegality or perversity in the impugned order. Considering the above aspect, revision must failed and hence, the following order.

ORDER

(I) Criminal Revision Application stands rejected.

(II) Rule stands discharged.

(III) Parties shall bear their own cost.

10. The learned counsel appointed for the applicant should be paid her fees as per the rules.

(BHARAT P DESHPANDE, J.)

PS.B.