

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.21 OF 2022

(Arjun Dnyaneshwar Ghorase .Vs. The State of Maharashtra)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri. R. D. Wakode, Advocate for Applicant
Ms. S. Z. Haider, APP for Respondent/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 1st FEBRUARY, 2022.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard Mr. R. D. Wakode, learned counsel for applicant, who contends that the applicant has been falsely implicated by the prosecutrix and that the complaint dated 03.11.2016 lodged by her alleging the incident, which has resulted in the conviction of the applicant under Sections 354-A and 451 of the Indian Penal Code, had never happened. Since the entire evidence has been placed on record, I have heard Mr. Wakode, learned counsel for applicant for quite sometime. He submits, that there was previous enmity between the husband of the complainant and the applicant. So also, the complainant and her husband had taken a loan of Rs.20,000/- from the applicant and since the same was avoided to be repaid, the false complaint came to be lodged. Both the Courts below, had concurrently found that the applicant on 02.11.2016 at about 12.30 p.m. had been to the residence of the complainant and had inquired about her husband and when, she answered that he had gone to the agricultural

field, the applicant had caught of her hand, pulled her to him and pressed her breast, as a result, she shouted, whereupon the applicant ran away. When the husband of the complainant had come back, the incident was narrated to him and the applicant upon confrontation, had though admitted the incident, on the ground that in case any action is taken, the same would lead to the defamation of the complainant had threatened the complainant and her husband.

3. Mr. Wakode, learned counsel for applicant by inviting my attention to the evidence of the complainant at Exh-13 submits, that there is an inconsistency between her complaint and the evidence, in as much as, in the complaint, it has been stated that the accused and the complainant were not on talking terms whereas in the evidence, she has stated that her son, was going to the school in the Van of the applicant at which time, she was on talking terms with the applicant. He further relies upon the admission of the complainant, that one day prior to the report, her husband and one person had called the accused at the house and had assaulted him. He therefore relies upon the evidence of the husband of the complainant at Exh-16 to indicate that he had admitted that he was not in good terms with the accused since the last six months. These are the two grounds on which, the conviction is being challenged. In so far as the contention, regarding assault to the applicant is concerned as admitted by the complainant in her cross examination, he has clarified that the assault, was on account of the incident mentioned in the complaint and not otherwise. The suggestion given to the complainant and her husband that Rs.20,000/- given

on loan to the complainant and her husband has been specifically denied and there is no other material on record, to indicate the same. Thus, the two grounds raised by the learned counsel for applicant in his defense, are clearly unworthy of acceptance, which position has been considered and rejected by the Courts below which is apparent, from the perusal of the assimilation of the evidence and its consideration by the learned Trial Court as indicated in para 21 of its judgment, wherein it has held that the testimony of the complainant in respect of the incident complained remain unshaken. The learned Session Court has also considered this position and found that there were no major omissions and contradiction in her evidence and the complainant has stuck by her complaint and her testimony was not shattered as is reflected from para 14 of the judgment of the learned Sessions Court.

4. The contention, that there was no independent eye witness, has rightly been rejected in view of the fact, that the applicant had gone to the house of the complainant when she was alone as her husband had gone for a funeral and considering the place at which, the incident had happened there is no question of any independent witness being available. There is no reason whatsoever to doubt the testimony of the complainant. I therefore considering the evidence on record and consideration of the same by the Courts below, do not see any reason whatsoever to interfere in the concurrent findings recorded by the Courts below regarding the conviction of the applicant under Sections 354-A and 451 of the IPC.

5. The revision therefore is without merits and is dismissed. No costs.

JUDGE

Tambe.

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by ASHISH
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