

THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL REVISION NO. 72/2022

Rizwana Parveen Mohammad Faruque ..Versus... State of Maharashtra and ors

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

Court's or Judge's orders

Mr. Y.P.Kaslikar, Advocate for applicant.
Mrs. Mayuri Deshmukh, Advocate for Respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 27/06/2022

1] Heard Mr. Kaslikar, learned counsel for the applicant and Mrs. Deshmukh, learned APP for respondent/State.

2] The revision challenges the judgment dated 29.05.2015 by the learned JMFC, Daryapur, whereby the respondents have been acquitted of the offence under Section 498-A r/w 34 of the IPC. The appellate Court by the judgment dated 9.2.2021 has dismissed the appeal.

3] Mr. Kaslikar, learned counsel for the applicant by relying upon the evidence of the complainant states that the basic premise upon which the impugned judgments are based is incorrect, as there is specific mention in the evidence of PW-1 Rizwana Parveen Mohd. Faruque regarding the demand and therefore, the Courts below ought not to have acquitted

the respondents.

4] Learned APP supports the impugned judgment and submits that the evidence of PW-1 would indicate that there was absolutely no material on record to indicate any demand.

5] With the assistance of the respective learned counsels, I have gone through the evidence of PW-1 (pg 27). The evidence of PW-1 is as vague as possible. Though a claim is made by the prosecution that on 5.9.2011 the respondents had gone to the paternal house of the complainant/PW-1 and made a demand of money, however, in her examination-in-chief itself the PW-1/complainant does not say on which date the demand was made. A vague statement is made that in the year 2011 she was reached to her paternal house, at which time a demand for Rs. 25,000/- is claimed to have been made. There is no date mentioned as to when the said demand was made or by whom, as there were as many four accused persons. Though learned counsel for the applicant relies upon the cross-examination of PW-1, it would be material to note that there is no fixed date indicated in the cross-examination also to indicate when she had been to Amravati and when the demand was made. That apart in the cross-examination, PW-1 herself has stated that after 4-5 months of her marriage, which had taken place in the year 2009, she and her husband had

started living separately from the other accused. Her evidence is therefore as vague as possible in respect of demand. Similar is the evidence of PW-2 Meharunnisa Mohd. Ismail, who is the mother of complainant PW-1. Though PW-3 Mohd. Asif Mohd. Ismail, the brother of PW-1, in his evidence speaks about a demand being made on 5.9.2011, he admits that after the marriage the PW-1 was residing separately with her husband. Even as per the PW-3, the earlier amounts were demanded on loan and not as dowry. It has also come on record that the respondent No.1 is an affluent person who has tractor, thresher and immovable property.

6] Considering the relationship of PW-3 with PW-1, both the Courts below have been skeptical to accept his evidence, more so in view of the evidence of PW-1 and PW-2, considering which I do not see any reason to interfere. The revision is therefore dismissed. No costs.

Rvjalit

JUDGE