

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

CRIMINAL REVISION APPLICATION (REVN) NO.119/2022

Sudhir s/o Damodhar Gedam

...Versus...

State of Maharashtra Through PSO Girad, Tah. Samudrapur, Dist. Wardha

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

Court's or Judge's orders

Shri A.M. Jaltare, Advocate for applicant
Ms T.H. Udeshi, APP for respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 06/05/2022

1. Heard Shri Jaltare, learned Counsel for the applicant.

2. The applicant challenges the concurrent findings rendered by the learned Judicial Magistrate First Class, Samudrapur in the judgment dated 02/11/2018, whereby the applicant has been convicted for the offence punishable under Section 354 of Indian Penal Code and sentenced to suffer Rigorous Imprisonment for one year and fine of Rs.3,000/-, in default, to suffer simple imprisonment for two months and further convicted for the offence punishable under Section 451 of Indian Penal Code and sentenced to suffer Rigorous

Imprisonment for one year and fine of Rs.2,000/-, in default to suffer simple imprisonment for two months. The learned Appellate Court by the judgment dated 25/04/2022 has been pleased to dismiss the appeal.

3. Shri Jaltare, learned Counsel for the applicant submits that the Medical Officer has not been examined; all the witnesses are relatives of the victim (PW-1) and therefore, are interested witnesses and the spot panchanama has not been proved. There is delay of one day in filing the First Information Report (FIR) and also delay in recording the statements of the witnesses. He, therefore, submits that on these grounds, the concurrent findings of facts rendered by the Courts below are required to be quashed and set aside.

4. The incident is dated 14/06/2015 when at about 9:00 a.m. the applicant/accused had been to the house of the victim/PW-1 when the husband of the victim was not in the house, which was to the knowledge of the applicant and asked her for an axe, which was given by her, upon receipt of which, the applicant went away. The applicant returned after 15 minutes and asked the victim for some water, which was provided to him. The applicant thereafter enquired with the victim as to why there was a demand for empty gunny bags of grain/cement, to which it was replied that she needed the same to fit in the house. The applicant hereafter asked her

where she wanted to fence it, whereupon the victim took him inside the house and showed him the place and turned back to go out when the applicant caught hold of the victim from the back and squeezed her breasts with both hands, whereupon the victim started shouting and pushed aside the applicant and ran out of the house being followed by the applicant. The victim thereafter abused the applicant who then went away. The victim thereafter had approached PW-5 Pushpa Chauhan immediately after the incident crying and had narrated the incident to her.

5. The learned Trial Court has considered the testimony of victim/PW-1 (pg. 116 of the present application) and has rightly come to the conclusion that there was consistency between the complaint and what was pleaded by the PW -1/victim in her evidence. A perusal of the evidence of the PW-1/victim at record page 116 demonstrates this. There is absolutely nothing brought by way of cross-examination to discredit her testimony. The version of PW-1/victim, is corroborated by the evidence of PW-5 Pushpa Chauhan (pg.133) and her cross-examination does not elicit anything. That apart, the evidence of PW-6 Dhanraj Chauhan also supports the version of PW-5/Pushpa Chauhan.

6. Though it is contended by the learned Counsel for the applicant that the Medical Officer has not been examined

and the injury report has not been exhibited, that in my considered opinion, considering the nature of the incident and the offence, was not necessary, as even PW-1/victim does not state that there was any injury on account of the alleged incident. The further contention that PW-5 and PW-6 were related to the PW-1/victim, in view of what has been considered and discussed by the Courts below, has no bearing upon the matter as the testimony of PW-1/victim remains unshaken. Both the Courts below have considered the evidence led in the correct perspective and I do not find any perversity in both the judgments, considering which, there is no merit in the present criminal revision application. The same is dismissed.

(AVINASH G. GHAROTE, J.)

Wadkar