

THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 451/2021
State of Maharashtra...Versus...Arjun Vishambhar Mamilwad

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

Court's or Judge's orders

Mr. N.S.Rao, learned APP for appellant/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 21/06/2022

1] Mrs. Saware, learned appointed counsel for respondent is absent.

R & P has been received. Heard finally.

2] Learned APP reiterates the position that the present appeal has been filed only against the original accused No.1 Arjun Vishwambhar Mamilwad and the State has not filed any appeal against the other accused Nos. 2 to 4, who stand acquitted. Therefore, the issue is now restricted to examination of any material viz-a-viz the accused No.1 alone.

3] It is contended that there was a demand of dowry from the respondent on four occasions; first time in the marriage, it is claimed that Vishambar - the father of the respondent had demanded one gold ring of 5 gms, Rs.25,000/- and the expenses for the marriage, which were paid; the second time Rs. 20,000/- were demanded for construction of the house by the respondent; third time

Rs.10,000/- is claimed to have been transferred from the account of the complainant/PW-1 Ramrao in the account of the accused No.1/respondent on 10.05.2014; the fourth time demand was made for a T.V, DTH, 4 grms gold and two mobile phones, which are claimed to have been given. The date of demise of the deceased Mukta w/o Arjun Mamilwad is 8.10.2015, by burns.

4] A perusal of the evidence of PW-1 Ramrao (the father of deceased Mukta) would indicate that in so far as the first demand is concerned, the same was not made by the respondent.

5] In so far as the second demand is concerned, though it is claimed that Rs. 20,000/- were asked for construction of the house by the respondent, PW-1 claims that money was not paid, but what was done was that a mason was sent along with expenses for the construction. This is clearly far-fetched for the reason that the distance between the place at which the PW-1 resides i.e. Talegaon, Tq. Umri Dist. Nanded and the place at which the respondent resides i.e. Govindpur, Dist. Chandrapur, is around 450 kms., away and to say that there are no masons or labourers available at Chandrapur appears to be illogical. PW-4 Yogesh Mahadeo Pallewad claims that in March 2014 at the instructions of PW-1 Ramrao, he had gone to the residence of the respondent along with Parmeshwar Jangewad and Shivanand Jetewad for

construction work, which was done by them for a period of two months. Though he claims that the labour charges were Rs. 350/- per day, he does not say whether it was only for himself or all of them. He also does not indicate as how and who had procured the construction material, as well as the nature of the construction made. The only statement is that the construction was made. It is also material to note that neither Parmeshwar Jangewad nor Shivanand Jetewad have been examined. The evidence of PW-4 as rightly held by the learned trial Court, does not inspire confidence as it lacks in material particulars. It is therefore rightly not relied upon by the learned trial Court to hold that the second demand has not been proved.

6] In so far as the third demand is concerned, since it indicates a bank transfer, it was necessary for the prosecution to have examined the bankers of the complainant PW-1 Ramrao and also that of the respondent to establish transfer of funds on 10.5.2014 as alleged. However, this has not been done, which indicates that the third demand has also not been proved by the prosecution.

7] In so far as the fourth demand is concerned, it is material to note that it is not the case of the prosecution that the items stated therein were purchased by PW-1 Ramrao in the name of the respondent, rather a specific case is made out that these were given by Ramrao to the respondents, which

would indicate that Ramrao had purchased them and they were thereafter delivered to the respondent, however, there is not a single bill for purchase of these items placed on record, which would indicate that the forth demand also has not been proved.

8] It is therefore apparent that though the prosecution has come on record with a case that the aforesaid four demands were made and claims that the guilt of the accused under Section 498-A of the I.P.C. has been established, however, the discussion above would indicate that none of these demands have been proved as against the respondent.

9] Mr. Rao, learned APP submits that the other evidence on record is not material in so far as the demand is concerned and therefore, the same is not being discussed.

10] In the light of what has been stated above, I do not feel that there is any scope for interference with the well reasoned judgment of the learned trial Court. I therefore do not find any merit in the appeal. The same is accordingly dismissed. No costs.

Rvjalit

JUDGE

Digitally sign byRAJESH
VASANTRAO JALIT
Location:
Signing Date:22.06.2022 11:08