

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

CRIMINAL APPLICATION (APPA) NO. 1037 OF 2019
IN
CRIMINAL APPEAL NO. OF 2022

Smt. Urmila Nandkishor Gupta,
Aged about 57 years, Occ: Nil,
R/o Flat No.3, Behind Andhumber Society,
Ganpati Matha Warje Malawadi,
NDA Road Near New Post Office,
Pune-411 058.

.... **APPELLANT.**
(Complainant)

// VERSUS //

Shankar Vyenkati Gajjamwar,
Aged about 57 years, Occu: Social Worker,
R/o Subhash Ward, Colliery Road,
Ballarpur, Tahsil Ballarpur,
District Chandrapur.

.... **RESPONDENT.**
(Accused)

Shri Rohit Joshi, Advocate for Appellant.
None for the respondent.

CORAM : **ANIL S. KILOR, J.**
DATED : **MARCH 04, 2022**

ORAL JUDGMENT :

1. The applicant/ appellant is seeking leave to prefer appeal against the impugned judgment and order dated 24/10/2019 passed by learned Judicial Magistrate First Class, Ballarpur in Regular Criminal Case No. 80 of 2009.

2. The brief facts of the present case are as follows:

The appellant/complainant filed a private complaint dated 15/05/2009 against respondent and Vishal Moon. It was the case of the complainant that, the complainant knew and had cordial terms with one Ramratan Babulal Verma. Said Ramratan Varma used to carry his business of gold and silver under the name and style of M/s Devaki Suvarnkar at Ballarsha. The complainant had given 207 gm gold along with a sum of Rs.50,000/- to remake new jewellery to said Ramratan Verma 2 years prior to filing of the aforesaid complaint.

2. It is the further case of the complainant that the said Ramratan Verma neither made the new jewellery nor did he return the 207 gram gold and Rs.50,000/- to the complainant. The complainant after the inquiries and searches came to know that said Ramratan Verma had left Ballarpur City and has gone to Karnataka. The complainant under shock discussed the same with her husband and the respondent. The respondent advised to lodge a police complaint against said Ramratan Verma.

3. It is submitted that the complainant being a lady had never visited police Station earlier. The respondent therefore offered his help and guidance in the matter. Complainant with the help of respondent lodged the FIR against Ramratan Verma on 13/04/2007. They called Ramratan Verma to the Police Station. Mr. Ramratan Verma thereafter, executed an agreement to pay Rs.2000/- per month. Said respondent was an attesting witness to the agreement.

4. It is further submitted by the complainant that the respondent and Vishal Moon suggested the complainant to file a civil suit against Mr. Ramratan Verma for recovery of 207 gram gold and Rs.50,000/-. Since, respondent was known to be a social worker and Vishal Moon was an Advocate, complainant believed their version. The complainant under influence of respondent asked Vishal Moon to file the civil suit against the respondent. It is submitted that the complainant did not know Vishal Moon. It was only because of respondent, the complainant asked Vishal Moon to file suit.

5. It is submitted that Vishal Moon on the pretext of respondent initially asked the complainant a sum of Rs.13,000/- for preparing the papers and Rs.3000/- for preparing the file. Thereafter, Vishal Moon and respondent lured the complainant on the pretext that they knew one judge at Ballarpur namely Dudhe. They assured that they had good terms with the judge namely Dudhe. Further, that, as Judge Shri. Dudhe and Vishal Moon are

from same caste, Shri Dudhe visits the house of Vishal Moon. That, respondent and Vishal Moon had a word with Shri Dudhe and he had said that, he would pass an order in civil suit in favour of the complainant and for that he has asked a sum of Rs.20,000/- believing the version the complainant again gave a sum of Rs.20,000/- to respondent and Vishal Moon. It is pertinent to mention here that, as already submitted respondent was heard to be a social worker and therefore, complainant was under the influence that he has good terms with many people and one such presumption was regarding Shri Dudhe. Thereafter, time and again respondent, Vishal Moon and his attorney on one pretext or another made repeated demands for money from the complainant. The complainant has paid a total sum of Rs.67,000/- to respondent and Vishal Moon. However, when complainant met Vishal Moon and inquired about the matter, Vishal Moon and his attorney always gave evasive replies and gave false dates. The complainant infact had to mortgage her gold chain towards a jeweler for Rs.8000/- to fulfill the demands of respondent and Vishal Moon.

Complainant tried for one and half year to know about the status of the case, however, complainant was never given any detail about the case. Complainant when tried to contact respondent and Vishal Moon on phone, complainant was abused. Complainant thereafter, asked to return the money borrowed from the complainant if no case is filed, the respondent and Vishal Moon gave life threats to the complainant. It is submitted that the son of complainant also tried to contact respondent and Vishal Moon requesting to return money. However, every attempt made by complainant failed instead she received threats for herself and family. Therefore, the complainant had filed a private complaint accusing respondent and Vishal Moon for cheating and criminal intimidation.

6. The learned Judicial Magistrate First Class, Ballarpur vide order dated 06/06/2009 took cognizance of the offence committed within its jurisdiction and registered the crime against the respondent and one Vishal Moon under Sections 420, 294 and

506(2) of Indian Penal Code. Crime came to be registered as Regular Criminal Complaint Case No.80 of 2009.

7. It is submitted that subsequently the appellant / complainant and Mr. Vishal Moon (accused No.1) amicably settled their matter amongst themselves and therefore, the complainant moved a pursis dated 28/09/2016 to withdraw her complaint against Vishal Moon i.e. accused No.1. Accordingly, complaint was withdrawn against Vishal Moon. However, complaint persisted against respondent.

8. Thereafter, the learned Judicial Magistrate after due verification of complaint and on the satisfaction of existence of *prima facie* material vide order below Exh.1, dated 28/09/2017, issued process against the respondent under Sections 420 and 506 of the Indian Penal Code.

9. I have heard learned counsel for the appellant, who is seeking leave in this case.

10. It is submitted that the learned trial Court has given perverse findings and reappeciation and reappraisal of evidence is necessary in this matter.

11. I have gone through the impugned judgment and also the depositions of the witnesses.

12. The learned trial Court has properly scrutinized the evidence on record and thereupon by recording its findings acquitted the respondent. Nothing has been pointed out to show any perversity.

13. The Hon'ble Supreme Court of India, in the Case of *Ajit Savant Majagvai Vs. State of Karnataka*¹ has held that except there

1 (1997) 7 SCC 110

is a perversity or gross illegality, the Court should not interfere with the order of acquittal.

14. In view of the above referred law, as there is no perversity in the judgment of the learned trial Court, accordingly, leave is refused.

The Criminal Application as well as Criminal Appeal is **dismissed**.

Pending application(s), if any, shall stand **disposed of**.

(ANIL S. KILOR, J)

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