

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.18 OF 2013

Sarika w/o. Dhanaji Kamble
Age Major, Occu. Household,
R/o. Latur .. Applicant

Versus

1. Dhanaji s/o. Keshav Kamble,
Age 31 years, Occu. Labour,
2. Rajabai w/o. Keshav Kamble,
Age 48 years, Occu. Household,

Both R/o. Ashok Nagar,
Ghatkopar, Mumbai,
At present Prakash Nagar,
Latur, Tq. and Dist. Latur.

3. The State of Maharashtra .. Respondents

Mr. Mukund D. Gitte, Advocate for Applicant;
Mr. Ravibhushan P. Adgaonkar, Advocate for Respondent Nos. 1, 2;
Ms. V. S. Choudhari, A.P.P for Respondent No.3/State

CORAM : S. G. MEHARE, J.

RESERVED ON : 10th NOVEMBER, 2022

PRONOUNCED ON : 11th JANUARY, 2023

ORDER :

1. The wife of accused No.1 preferred present revision against the order passed in Criminal Appeal No.119 of 2010, dated 20.10.2012, acquitting all respondents of the offences punishable under Sections 498A and 323 read with Section 34 of the Indian Penal Code. Applicant would be referred to as the “complainant” and the respondents would be referred to as the “accused”, hereinafter.

2. Heard the respective counsels at length.

3. Learned counsel Mr. Gitte for the applicant would argue that the complainant and her mother, as well as the other relevant witnesses, are consistent as regards the illegal demand of money and ill treatment to the complainant at the hands of the accused/respondents. The learned First Appellate Court assigned the incorrect reasons for discarding the witnesses. Her mother has corroborated the testimony of the victim. The learned Sessions Judge erroneously observed that all four material witnesses did not depose the exact date or any occasion with reference to the festivals when the accused nos.1 and 3 visited her parents' home. The learned Sessions Judge erroneously branded the four eyewitnesses as unnatural. The evidence has been appreciated discarding the rule of appreciation of evidence. He would pray to allow the petition.

4. The learned counsel for the respondents supported the impugned order. He would argue that there were no errors in the impugned order. The learned Sessions Judge also correctly disbelieved the theory of demand of dowry to set the shop for her husband in Mumbai. It was highly impossible to set up a shop with Rs.50,000/- in a city like Bombay. The mother-in-law of the victim was a handicapped. There was absolutely no evidence to believe the allegations levelled against the accused. He would also argue that the jurisdiction of Latur Court has been invoked deliberately to harass the

accused. There was inordinate delay in lodging the first information report. Every aspect of the law has been considered by the learned Sessions Judge. There were no grounds to interfere with the impugned order.

5. Following points arise for determination of this Court, and findings thereon are recorded for the reasons to follow:-

Nos.	Points	Findings
i)	Whether the impugned order is legal, .. correct and proper?	In the affirmative.
ii)	What order?	.. As per the final order

Point No.1 :

6. It is the evidence of the witnesses that the applicant married respondent no.1 on 20.05.2006. After marriage, the complainant went to cohabit with her husband in Mumbai. The first information report was lodged on 19.12.2009, alleging that the accused ill-treated her for illegal demand of Rs.50,000/-. It is also evident that the husband and wife had some marital discord. However, they had a settlement before the Women's Protection Cell. But they could not pull on their marital relationship. Their discord resulted in lodging the report.

7. The learned Sessions Judge disbelieved the witnesses for the reason that there was no evidence to prove that the accused assaulted the applicant. There were material contradictions in the evidence of the applicant and other witnesses as regards assaulting her at her parent's home. It appears that the learned Sessions Judge appreciated the evidence minutely. Since the evidence of the witnesses was inconsistent, the learned Sessions Judge disbelieved them and branded them as unnatural witnesses. Failure to lodge the report immediately when the applicant was assaulted was also the ground that made the learned Sessions Judge disbelieve the allegations. Considering the entire circumstances, the learned Sessions Judge also disbelieved the allegation of unlawful demand of Rs.50,000/-. The allegations levelled against the accused were marked vague. There were no specific dates and times of the alleged incident. The delay of 1 year and 1 month in reporting the alleged demand for dowry and illtreatment has also been taken into account. On the basis of the appreciation of the evidence as discussed above, the learned Sessions Judge Latur set aside the order of conviction passed by the learned Magistrate and acquitted the respondents/accused.

8. This Court has perused the record and the impugned order as well as the order of the learned Magistrate. The learned Sessions Judge has appreciated the evidence from the proper perspective of the law. He has given the correct reasons to disbelieve the witnesses

and their unnatural conduct. The overall reasons assigned by the learned Sessions Judge appear within four corners of the law. There is no apparent error of law in acquitting the respondents/accused. Therefore, this Court does not find a reason to interfere with the impugned order. Hence, point no.1 is answered in the affirmative.

Point No.2 :

9. For the reasons discussed above, this Court is not satisfied that the impugned order is illegal, incorrect and improper. In a result, the revision application fails. Hence, the following order:-

ORDER

- (a) The revision application stands dismissed.
- (b) R & P be returned to the Court of learned 8th Judicial Magistrate First Class, Latur.

(S. G. MEHARE, J.)

amj