

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 341 OF 2005

Mukta Mangalsing Solanke,
Age 36 years, Occupation Household,
Resident of C/o. Ramdhan Harsing Daberao,
at Post Bansinagar, Post Jaitala, Hingna naka
Taluka District Nagpur

.. Applicant

Versus

1. The State of Maharashtra
through Public Prosecutor,
High Court, Aurangabad
2. Mangalsing s/o. Ramsing Solunke,
Age 30 years, Occu. Service
3. Sumanbai w/o. Ramsing Solunke,
Age 55 years, Occu. Household
4. Ramsing s/o. Fattlesing Solunke,
Age 60 years, Occu. Pensioner
5. Sunanda w/o. Navalsing Pawar,
Age 35 years, Occu. Household
6. Navalsing s/o. Gondusing Pawar,
Age 40 years, Occu. Service

All Resident of Choudharinagar,
New Jalna, Jalna

.. Respondents

Ms. A. N. Ansari, Advocate for Applicant;
Mr. S. P. Deshmukh, A.P.P. for Respondent No.1/State;
Mr. Joydeep Chatterji, Advocate for Respondents Nos. 2 to 6

CORAM : S. G. MEHARE, J.

Reserved on : 18.07.2023

Pronounced on : 25.09.2023

JUDGMENT :-

1. Heard finally, with the consent of the learned counsels for the parties.
2. The victim/wife and daughter-in-law and sister-in-law of the accused took exception to the judgment and order of acquittal of the learned 2nd Joint Judicial Magistrate, First Class, Jalna, passed in Regular Criminal Case No.86 of 2002, dated 24.01.2005.
3. Brief facts of the case were that the present applicant married accused No.1 on 12.12.1996. They were blessed with two daughters. However, the family was not happy as she could not deliver a male child. Hence, they started ill-treating her. Her husband was asking her to bring a golden chain of 20 grams from her parents. She was continuously harassed and treated cruelly for the demand of a golden chain and not procuring the male child. Due to the cruelty caused to her, she left her home and went to her parents. She came to Jalna with her brother and uncle on 10.01.2002 for reconciliation and to explain the accused. She and her relative had been to the house of the accused. Her relatives were insulted. However, she stated that on that day, she was again abused and beaten by kicks and blows by accused No.1/her husband. Therefore, she lodged a report with the police station. The police took cognizance and registered a crime bearing No.11

of 2002 for the offence punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

4. The prosecution examined six witnesses. The learned Judicial Magistrate First Class, appreciating the evidence, disbelieved the witnesses and acquitted the accused by the impugned judgment and order.

5. The learned counsel for the applicant has vehemently argued that the learned Judicial Magistrate First Class has erred in appreciating the evidence. There was no reason to disbelieve the victim, who was treated with cruelty. Giving birth to a male or female child was not in the hands of a woman. She was tolerating the ill-treatment with a hope of developing good relations. The consistent evidence of the witnesses has been disbelieved without reason. Therefore, the revision may be allowed, and the matter may be sent back to the learned Judicial Magistrate First Class for rewriting the judgment.

6. Per contra, learned counsel Mr. Chatterji for the accused would submit that the impugned judgment and order is neither perverse nor illegal. There are no errors on the face of the record. The view of the learned Judicial Magistrate is possible. Therefore, this Court cannot take another view. The mother of the victim was not examined. The Investigating Officer did not examine the

relatives. There were material contradictions and omissions. The learned Judicial Magistrate has appreciated the evidence correctly. The revision is devoid of merit; hence, it may be dismissed.

7. This revision was the first remedy against the acquittal. Therefore, the minute scrutiny needs to be done. The Court has minutely examined the record and the impugned judgment and order.

8. The victim resided peacefully without any complaint with the accused. Both families were familiar with each other even prior to the marriage. The allegations of performing the second marriage blaming the victim she is not mentally fit appear to have not been proved beyond a reasonable doubt. The learned Magistrate has correctly doubted the silence of the victim for four years of her marital life. As against her allegations that since the beginning, she was ill-treated for a golden chain, the learned Magistrate has also correctly observed that prior to the alleged date of the incident, there was no meeting in the family to find out the cause of the dispute. That indicates that she was treated well. The evidence led before the trial Court appears to have been appreciated correctly with its consequences upon the allegations against the accused. The learned Magistrate has correctly disbelieved the evidence led before it, as it was not inspiring the confidence.

9. After carefully examining the impugned judgment and order, the Court did not find any errors on the face of the record. Therefore, the revision application fails. Hence, the order:-

ORDER

- i) Criminal Revision Application stands dismissed.
- ii) R & P be returned to the Court of the learned 2nd Joint Judicial Magistrate First Class, Jalna.

**(S. G. MEHARE)
JUDGE**

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