

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

CRIMINAL REVISION APPLICATION NO.340 OF 2004

Dattatraya s/o Rambhau Nalapure,
Age 30 years, Occu. Agriculture,
R/o Pimpalgaon (Amba),
Tq. and District Latur. ... Applicant.

Versus

The State of Maharashtra ... Respondent.

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Advocate for Applicant : Ms. Jayashree Nawale and Mr. V. D.
Salunke.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 07.02.2023

ORAL JUDGMENT :-

1. The applicant/accused has preferred the criminal revision application against the concurrent judgments of the trial Court and the Appellate Court convicting him for the offence punishable under Section 354 of the IPC.
2. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
3. Learned counsel for the applicant has vehemently argued that the probable defence of the applicant that the victim may suffer injuries due to fall in the field has been totally discarded.

She has also vehemently argued that the sole evidence of the victim is not sufficient to prove the guilt. This material aspect has been ignored by both Courts. The defence of false implication of the applicant due to political rivalry has also been not properly noticed. Four (4) days before the incident, he was assaulted by one Govind and Vyankat. Again, on the day of incident Govind beat him, so he had been to the police to lodge the complaint, but the police did not take his complaint. However, he was sent to the hospital. To defeat and to give go bye his complaint, the complainant in collusion with the said person, filed the present false complaint. Ignoring the material evidence is the error of law and that can be taken care of by this Court under Section 397 and 401 of the Cr.P.C. The applicant had unblemished record. Both judgments and orders are erroneous and illegal. Hence, the criminal revision application may be allowed.

4. Per contra, learned APP for the respondent-State has vehemently argued that the testimony of the prosecutrix is supported with the admissible evidence. She has no reason to lie. The defence of the accused is improbable. Both Courts have considered the defence of the accused. This Court has a limited revisional jurisdiction. It cannot re-appreciate the

evidence. Unless there is a patent defects or error of jurisdiction or law, this Court cannot interfere the concurrent judgments of two Courts. To bolster his argument, he relied on the case of *Malkeet Singh Gill Vs. State of Chhattisgarh, 2022 (8) SCC 204*. Supporting the two concurrent judgments, he has vehemently argued that the sole testimony of the woman if free from contradictions and omissions can be a sufficient for conviction. To bolster his arguments, he relied on the case of *Phool Singh Vs. State of Madhya Pradesh 2022 (2) SCC 74*. He further argued that the defence of the applicant was not probable. No woman would put her life at stake making such allegations that may be harmful to her reputation. He prayed to dismissed the criminal revision application.

5. The ratio laid down in the case of *Malkeet Singh Gill (supra)* as regards the revisional jurisdiction of this Court is well settled. The law is also settled that the sole testimony of the victim / woman if inspired the confidence such evidence cannot be discarded and the accused may be convicted.

6. Perused the two concurrent judgments and orders of learned Judicial Magistrate First Class and the First Appellate Court i.e. 2nd Additional Sessions Judge, Latur. The judgments and orders impugned before this Court appears to have been

within the four corners of the law. The evidence of the witnesses has been discussed elaborately. The incident happened in field of one Yedba Pisal when she was returning from the field. She made the specific allegations against the applicant that he hold her right hand and dragged her into the field of said Yedba Pisal. She also deposed that the applicant was asking her to give a kiss and become his wife.

7. The intention can be gathered either from the conduct and the words used. The words uttered by the applicant coupled with dragging her into the field is the evidence to believe that he dragged her with intent to outrage her modesty. Her evidence is supported with the medical evidence. There appears nothing brought on the record that spot of incident was like that she may suffer the injuries. Her blouse was also torn and *Mangalsutra* was broken. The act of the applicant were apparently predetermined.

8. Perusal of impugned judgments and orders reveal that the evidence led by the parties have been correctly appreciated. There are no reasons to disbelieve the sole testimony of the victim. There is no error on the face of the record. There are no grounds to interfere the judgments

impugned before the Court. In the result, the criminal Revision Application fails. Hence, the following order :

ORDER

- (i) Criminal Revision Application stands dismissed.
- (ii) The learned Judicial Magistrate First Class, Latur is directed to issue the conviction warrant against the applicant, if he has not undergone the sentence.
- (iii) Record and Proceedings be returned to the Court of learned Judicial Magistrate First Class, Latur.
- (iv) Rule stands discharged.

(S. G. MEHARE, J.)

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vmk/-