

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

CRIMINAL REVISION APPLICATION NO.232 OF 2022

Dinesh s/o Vyankat Kamble,
Age 23 years, Occu : Labour,
R/o. Malewadi, Tq. Udgir,
District Latur.

...Applicant

VERSUS

1. The State of Maharashtra
Through P.I. of Udgir Rural Police Station,
Udgir, Tq. Udgir,
District Latur.

2. Shital Balaji Kamble,
Age 27 years, Occu : Household,
R/o Malewadi, Tq. Udgir,
District Latur.

...Respondents

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Mr. R.K. Ashtekar h/f Mr. D.N. Gilche, Advocate for the applicant.
Mr. S.P. Deshmukh, APP for the respondent-State.
Ms. Jeevan R. Patil, Advocate for respondent no.2.

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**CORAM : S.G. MEHARE, J.
DATED : APRIL 17, 2023**

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

2. The applicant has impugned the judgments and orders of conviction passed by the learned Judicial Magistrate First Class, Udgir, District Latur in R.C.C. No.154 of 2018 dated 21.02.2019 and confirmed by the learned Additional Sessions Judge, Udgir by its judgment and order dated 07.07.2022 in Criminal Appeal No.4 of 2019.

(2)

3. It has been submitted by the learned counsel for the applicant and respondent no.2/victim that they are resident of same village. Now, they have developed good relation. The victim has no grievance against the applicant. Therefore, the offence be compounded. The applicant has been convicted for the offence punishable under Section 354 of Indian Penal Code. The said offence is non compoundable. Therefore, their prayer stands declined.

4. As far as the merit of the case, learned counsel for the applicant has vehemently argued that the incident appears to be happened in the spur of moment. The intention was missing. The statement of the victim was not corroborated by her mother-in-law. The Court did not consider that the spot of incident is surrounded by houses and it was a busy place. If this facts have been considered, it was not possible to commit the crime as alleged. It has also not been considered that the applicant and the husband of the victim had a quarrel in his marriage. Hence, there were inimical terms, therefore, false implication was probable. Convicting the accused on the sole evidence of victim is illegal. There is material contradiction as regards the presence of mother-in-law and the victim at a time of incident.

5. The victim deposed that she and her mother-in-law were filling the water from the public well. That time, the accused came there and caught her hand. The allegations have been falsified by the

admission of PW-3, the mother-in-law of the victim that the incident did not happened in her presence. On the basis of this evidence, the learned counsel for the applicant has vehemently argued that the offence has not been proved against him. In addition to these arguments, he would argue that if the Court comes to the conclusion that the judgments impugned before the Court are legally correct, his age may be considered and the sentence may be reduced to the undergone period.

6. Per contra, the learned APP would argue that the sole testimony of the victim is sufficient to hold the accused guilty. The enmity is two edged weapon that may be used from either side. The evidence of the victim is cogent and reliable. She has no reason to put her life at stake by making false allegations. Both judgments and orders are well reasoned. *Prima facie*, no errors have been committed. Hence, the revision application may be dismissed.

7. Perused the impugned judgments and orders. The copies of the evidence of the witnesses have also been placed on record. If the victim's evidence inspire confidence, on her sole evidence, the accused may be convicted. The applicant did not deny that he was present on the spot of the incident. Previous enmity was also there so that may be used against the victim. The judgments and orders reveals that the evidence has been correctly appreciated and correctly

believed the victim. This Court did not find any error apparent on the face of record.

8. As far as the conviction is concerned, learned counsel for the applicant states that the applicant has undergone the sentence for two months. The applicant was 23 years old at the time of incident. There were no antecedents to his discredit. Considering his age, family background and developing good relations with victim and her family, the Court is of the view that the sentence may be reduced to the undergone period. Hence, the following order :

ORDER

- (i) The revision application is partly allowed.
- (ii) The impugned judgments and orders have been confirmed and the period of conviction is modified.
- (iii) The applicant is convicted under Section 248(2) of Cr.PC. for the offence punishable under Section 354 of Indian Penal Code and sentence to suffer RI for the period the accused has undergone.
- (iv) The bail bonds and surety bond stand cancelled, and surety stands discharged.
- (v) Rule is made partly absolute in above terms.

(S.G. MEHARE, J.)