

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.353 of 2004

The State of Maharashtra
(Through Jaikheda Police
Station, Tal.Satana,
District Nashik)

... Appellant.
(Orig.Complainant)

Versus

1. Manoj Shamrao Patil,
Age 20 years,
2. Sau Sindhubai Shamrao Patil,
Age 48 years,
3. Shamrao Kalu Patil,
Age 58 years,
4. Pravin Shamrao Patil,
Age 27 years,
5. Sau. Rekhabai Suresh Shinde,
Age 38 years,
6. Sau. Shevantabai Shashikant Patil,
Age 32 years,

All R/o.Nampur, Tal.Satana,
District Nashik.

... Respondents.
(Orig.Accused No.1 to 6)

Mr AR Kapadnis, APP for appellant/State.

Mr Rahul Vijaymane, advocate for respondents No.1 to 6.

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Coram : R. N. Laddha, J.

Reserved on: 04.10.2023.

Pronounced on:01.12.2023.

Judgment :

This is an appeal impugning the judgment and order dated 20.10.2003 passed by the Judicial Magistrate, First Class, Satana, Nashik, acquitting the accused/respondents of the offence punishable under Section 498-A read with 34 of the Indian Penal Code (for short, 'IPC').

2. It is the case of the prosecution that the complainant is the wife of accused No.1, and they got married on 26.5.1995 at Nampur. After the marriage, the complainant went for co-habitation. The accused No.2 and 3 are the complainant's in-law, accused No.4 is brother-in-law, and accused No.5 and 6 are sisters-in-law. Initially, all accused treated her well for a few days. However, accused No.1 started asking her to bring Rs.20,000/- from her parents for her service, which she refused to do so. Consequently, all the accused started ill-treating her on that count. They also ill-treated her as sufficient dowry was not given in the marriage, and they were not properly honoured. They also ill-treated her because she was not doing household work properly and asked her to

bring Rs.20,000/- from her parents if she wanted to co-habit.

3. It is also alleged that accused No.2 assaulted and abused her. During her co-habitation period, the complainant sent letters to her father on 31.8.1995, 8.10.1995, 10.10.1995 and 24.3.1996 mentioning the ill-treatment.

4. On 22.8.1996, the accused drove her out of the house. Hence, she went to her parent's house. On 8.6.1997, her father, Bhila Kashiram, along with Jagan Mahadu and the complainant, went to the house of accused. However, the accused did not allow them to stay and drove them all out. Therefore, on 30.10.1997, the complainant was constrained to file a complaint against all the accused. Based on this complaint, an offence was registered against the accused under Section 498-A r/w 34 IPC, and after finding the complicity of the accused, a charge-sheet was filed against all of them.

5. The charge was framed against the accused for the offence punishable under Section 498-A r/w 34 of the IPC, to which they pleaded not guilty and claimed trial. During the course of the trial, the learned trial Court recorded the evidence of the Bhila Kashiram (PW1), father of the

complainant; Barku Punja Nagare (PW2); Sandhya Patil (PW3), the complainant; Mohandas Salunkhe (PW4), brother of the complainant and ASI Gangadhar Mhale (PW5), the investigating officer. Statement of the all accused were recorded under Section 313 of the Code of Criminal Procedure. Defence of the accused No.1 to 4 was that they were not giving permission to the complainant for service, and hence, she filed a false case whereas, the defence of the accused No.5 and 6 was of total denial.

6. After appraisal of the evidence and the material on record, the learned trial Court acquitted all the accused. Being aggrieved and dissatisfied with the impugned judgment of acquittal, the appellant/State has filed the present appeal.

7. Heard Mr AR Kapadnis, the learned Additional Public Prosecutor for the appellant/State and Mr Rahul Vijaymane, the learned Counsel for the respondents/accused.

8. Mr AR Kapadnis, the learned APP, submitted that the trial Court erred in acquitting the accused and committed a manifest error. He argued that the trial Court failed to rely on the evidence of the prosecution witnesses. The complainant testified about ill-treatment on the grounds of a

demand of Rs.20,000/-, which is corroborated by letters sent to her parents. According to the learned APP, the prosecution witnesses have deposed about the ill-treatment and unlawful demand. All the witnesses have supported the prosecution case, and there is no omission or contradiction in their evidence.

9. Mr Rahul Vijaymane, the learned Counsel for the respondents, supported the line of reasoning adopted by the trial Court. He argued that the testimonies of the prosecution witnesses indicate that accused No.5 and 6 are the married sisters of accused No.1. He also pointed out that the complainant mentioned in a letter (Exh.53) that her husband was demanding Rs.20,000/- by way of loan. Therefore, according to the learned Counsel, it is not proven that the complainant was demanding Rs.20,000/- by way of unlawful demand. He further submitted that the father of the complainant did not state that the accused did not allow the complainant and her brother Mohandas to enter their house. He also submitted that the complainant's brother had visited the accused's house eight to ten times, but the complainant did not mention this to him. Additionally, the accused did not demand cash directly from him. The learned Counsel

submitted that the complainant, her father, and her brother have not stated a single incident about alleged assault and abuse specifically.

10. This Court will now proceed to examine the oral evidence presented by the prosecution. Prior to that, it is important to note that the prosecution's case rests on the testimony of witnesses who are close relations of the complainant. It is the case of the prosecution that the accused treated the complainant properly for 15 days after the marriage. However, thereafter, they started ill-treating her with the intention of extorting Rs.20,000/- from her parents. The complainant's testimony does not disclose on which day or date the accused demanded the cash amount.

11. The complainant has alleged that accused No.2 assaulted her and that other accused ill-treated her because they were not appropriately honoured in the marriage. However, the complainant has not provided any details about the manner in which she was harassed. The evidence shows that the complainant sent all five letters to her father and brother, narrating the ill-treatment she received from the accused. In one of the letters (Exh.53), the complainant stated that accused No.1 was demanding Rs.20,000 as a handloan.

However, in the other letters, there is no mention of the accused demanding a cash amount of Rs.20,000/- to join the service of the complainant.

12. From the record, it appears that on 22.8.1996, the accused assaulted the complainant and threatened her not to cohabit with him. However, it is unclear on which count the accused had assaulted and driven her out.

13. The complaint does not mention that on 22.8.1996, all the accused had assaulted and driven her out, demanding a cash amount. In the evidence, the father and brother of the complainant have not stated a single incident of ill-treatment happened before them. From their evidence, it appears that they had visited the house of the accused eight to ten times when the complainant was cohabiting. The evidence provided by the father and brother does not demonstrate that the complainant had made a complaint to them when they visited the house of the accused. There is no evidence to suggest that they ever told the accused not to harass or ill-treat the complainant when they saw her matrimonial home.

14. The prosecution witnesses have made general allegations without providing any specific instances of demands and ill-

treatment. The allegations are made against all the accused, and an omnibus statement is made regarding demands, harassment and beating.

15. Section 498-A IPC provides that when a husband or a relative of the husband of a woman subjects such woman to cruelty, they shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine. The term cruelty has been defined in the explanation of Section 498-A IPC. Explanation (b) provides that harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. It is not any and every cruelty that is made punishable but only the cruelty as defined under the explanation. Upon perusal of the evidence of the prosecution witnesses, it appears that though there is the allegation of an unlawful demand, the same should not come under the meaning of cruelty.

16. Furthermore, the complaint (Exh.57) indicates that the complainant was driven out on 22.8.1996. On 8.6.1997, the complainant, along with her father, brother and other

persons, went to the accused's house, but they refused to take the complainant for cohabitation. However, the complaint was filed after about four and half months, i.e. on 30.10.1997. Moreover, there is no evidence of actual words of abuse or threats to the complainant.

17. It is a settled principle in law that an acquitted individual benefits from a dual presumption in their favour. The first presumption stems from the fundamental principle of criminal jurisprudence that every individual is presumed innocent until proven guilty by a competent court of law. The second presumption arises post-acquittal, where the individual's innocence is not only presumed but further reinforced, reaffirmed, and strengthened by the verdict of the trial Court.

18. In such circumstances, the trial Court, in my considered opinion, rightly found that respondents are not guilty of the offence for which they were charged.

19. Resultantly, this appeal fails and is hereby dismissed.

[R. N. Laddha, J.]