

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

**INTERIM APPLICATION NO. 2138 OF 2021
IN
REVISION APPLICATION NO. 148 OF 2021**

Sandip Sidram Shedjale ... Applicant
v/s.
The State of Maharashtra and anr. Respondents

Mr. Vinod P. Sangvikar a/w. Mr. Yogesh Morbale
for the Applicant.

Mr. A.R. Patil, APP for the State.

Mr. Rajesh More for the Respondent No.2.

CORAM: R.G. AVACHAT, J.

DATED : 17th JANUARY, 2023.

P. C. :-

. Heard learned counsel for the respective parties.

2. By this Application, the Applicant has sought for stay of his conviction. The Court of Additional Chief Judicial Magistrate, Pune vide his judgment and order dated 21/01/2019 convicted the Applicant for the offence punishable under section 498(A) of IPC and therefore instead of sentencing to any imprisonment, the Applicant was given benefit of section 360 of the Code of Criminal Procedure. The Applicant preferred Appeal against his conviction. He has however been unsuccessful therein. He therefore preferred the Revision Application.

3. The Applicant is a police constable. He was promoted to the post of Police Sub Inspector. He was even deputed for training. After having received an order of conviction, he was demoted back to the post of constable. The Applicant has therefore preferred this Application.

4. The learned APP has relied on the judgment of the Apex Court in ***Shyam Narain Pandey v/s. State of Uttar Pradesh (2014) 8 SCC 909.*** Learned APP would further submit that the Applicant is in police service. If he is promoted to the post of Police Sub Inspector, it would send a wrong message. The Applicant may be entrusted with the investigation of crimes when he himself is a convict of a crime against his own wife. He therefore urged for rejection of the Application.

5. Learned advocate for Respondent No.2 (wife of the Applicant) made submissions on the lines of the submissions made by the learned APP. According to him, not less than 4 to 5 proceedings are pending between the parties. Settlement is not in-sight. The Applicant be directed to pay all the arrears of maintenance. According to both learned APP and learned advocate for Respondent No.2 (wife), relief of stay of conviction is exceptionally granted and facts and circumstances

of this case do not warrant grant of such relief to the Applicant herein.

6. Considered the submissions advanced. Perused the judgment of the Trial Court and that of the Appellate Court as well. It is true that such relief can be granted in exceptional cases. Merits of the matter need to be considered. The judgment of the Trial Court and that of the Appellate Court undoubtedly indicate that the Respondent (wife) and all other witnesses (her relations) testified that she was ill-treated, physically and mentally so as to coerce her to meet unlawful demand of money. Both the Courts below disbelieved the evidence of the Respondent-wife, her father and other relations in this regard.

7. The conviction on the Applicant for offence punishable under section 498(A) of IPC has been recorded only on the ground that the Applicant had suspected her character and therefore ill-treated her. The defence witnesses were disbelieved. It is therefore necessary to advert to the definition of the offence punishable under section 498(A) of the Indian Penal Code. The same is therefore reproduced below :-

“ 498-A. Husband or relative of husband of a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with

imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation. - For the purpose of this section, “cruelty” means -

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) 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. ”

8. There is nothing on record to suggest that the ill-treatment meted out to the wife on account of suspecting her character, was of such a nature as likely to drive her to commit suicide or to cause grave injury or danger to her life, limb or health. As such whether the Applicant has rightly been convicted for the offence punishable under section 498(A) of IPC, is seriously in doubt.

9. In view of the above, this Court finds that the Applicant has a good case in the Revision Application. It is not known as to when the Revision Application will have its turn for hearing on merits. The Court

is therefore inclined to grant the Interim Application. The Application is thus allowed in terms of prayer clause (b).

10. Interim Application stands disposed of.

(R.G. AVACHAT, J.)

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2023.01.23
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