



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

CRIMINAL REVISION APPLICATION NO. 31 OF 2006

Saida Kausar Sultana d/o. Md. Kamruddin,
Age 38 years, Occu. Service,
R/o. Nutan Colony, Aurangabad

.. Applicant

Versus

1. The State of Maharashtra
2. Nasiruddin s/o. Naimuddin,
Age 40 years, Occu.
R/o. Afgan Mohalla, Old Jalna,
Tq.and Dist. Jalna
3. Naimuddin s/o. Ashrafuddin,
Age 60 years, Occu. Nil,
R/o. Hyderabad
4. Abeda Begum w/o. Naimuddin,
Age 55 years, Occu. Household,
R/o. As above
5. Nayyar Sultana w/o. Najimuddin,
Age 30 years, Occu. Household,
R/o. Nizamabadd
6. Qamar Sultana w/o. Yusuf Khan,
Age 33 years, Occu. Household,
R/o. As above
7. Kaniz Sultana w/o. M. Arshad,
Age 35 years, Occu. Household,
R/o. Adilabad
8. Taslim Sultana w/o. Azharuddin,
Age 32 years, Occu. Household,
R/o. Adilabad

.. Respondents

Mr. Sohail Subhedar, Advocate holding for Mr. N. S. Ghanekar,
Advocate for Applicant;
Ms. V. S. Choudhari, A.P.P. for Respondent No.1;
Mr. Somnath Nagode, Advocate holding for Mr. Satej S. Jadhav,
Advocate for Respondents No.2 to 8

CORAM : S. G. MEHARE, J.

DATE : 09-08-2024

ORAL JUDGMENT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for respondent No.1 and the learned counsel for respondents No.2 to 8.

2. The victim has preferred this revision against the judgment of acquittal of the learned Judicial Magistrate First Class, Jalna, in R.C.C.No.20394 of 1995 dated 26.10.2005. Respondents No.2 to 8 /accused faced the trial for the offences punishable under Sections 498A, 504, and 506 read with Section 34 of the Indian Penal Code.

3. The prosecution has examined the material witnesses. The trial Court, on appreciating the evidence, recorded the findings that there were material contradictions and omissions in the statements of the witnesses. The corroborating witnesses i.e. brothers and sisters of each other, also gave contradictory statements under Section 161 of the Code of Criminal Procedure. P.W.No.4 has deposed that the applicant sustained injuries due to the stove flames.

4. The learned counsel for the applicant submits that the omissions and contradictions were not material. The victim was consistent about ill-treatment caused to her by the husband and his family members. The applicant has no reason to lodge a false

report. The overall assessment of the evidence proved that she was ill-treated and harassed, and the offence was made out, but due to erroneous appreciation of evidence, an illegal impugned order was passed.

5. Per contra, the learned counsel for the accused has vehemently argued that there is nothing to show that the evidence led constitutes the offence for which the accused were charged. The learned trial Court has correctly recorded the omissions and contradictions in the evidence of the witnesses who are relatives of the victim. The allegations of burning have also been falsified from the evidence of P.W.No.4. Reading evidence as a whole does not constitute the offence as alleged. The impugned judgments and orders are free from infirmity and illegality. Hence, the revision application deserves to be dismissed.

6. Perused the impugned judgment and order.

7. The learned Magistrate has discussed the evidence of each and every witness. The specific findings have been recorded that one of the witnesses i.e. P.W.No.4, explained injuries sustained to the informant's daughter. He deposed that the victim suffered burn injuries due to stove flames. From his evidence, an inference could be drawn that it was an accident. The brother and sisters of the victim have led evidence contradictory to what they had stated before the police in the statement under Section 161 of the

Cr.P.C. Appreciating the evidence, it appears that the learned Magistrate has correctly held that there are material omissions and contradictions in the evidence of the witnesses. If the allegations and material before the Court was read as a whole, it would be impossible for the Court to record findings that the offences for which the accused were charged were proved.

8. The findings recorded by the learned Magistrate are in consonance with the evidence produced before him. There are material contradictions and omissions in the evidence of material witnesses. He did not commit the error of law in holding that the charges have not been proved against the accused. The impugned order is free from infirmity and illegality. The petition is devoid of merit. Hence, stands dismissed.

9. Rule stands discharged.

10. R & P be returned to the Court of the learned Judicial Magistrate First Class, Jalna.

(S. G. MEHARE)
JUDGE

rrd