



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 112 OF 2018

Shivnanda w/o. Satyawar Karadbhaje,
Age : 32 years, Occu. : Service,
R/o. Chandrabhaga Niwas,
Bhagwan Nagar, Georai, Tq. Georai,
District Beed.

... Appellant
(Orig. Complainant)

Versus

1. The State of Maharashtra,
2. Satyawar s/o. Asaram Karadbhaje,
Age : 37 Years, Occu. : Service,
R/o. Anand Nagar, Pathardi,
Taluka Pathardi District Ahmednagar.

At present resident of
Zilla Parishad Primary School,
Badewadi, Taluka Pathardi,
District Ahmednagar.

3. Chandrakala w/o. Asaram Karadbhaje,
Age : 67 years, occu. : Household,
R/o. Anand nagar, Pathardi,
Taluka Pathardi, District Ahmednagar.
4. Mirabai W/o. Chandrashekhar Jagtap,
Age : 47 years, Occu. : Household,
R/o. Patas, Taluka Daund,
District : Pune.
5. Tarabai W/o. Shivaji Taksal
Age : 40 years, Occu. : Household,
R/o. Sakshal Pimpri Taluka and
District Beed.
6. Tatyasaheb S/o. Asaram Karadbhaje,
Age: 40 years, Occu. : Service,
R/o. Swapna Sakar Building,
Katraj Highway, District Thane.

At present resident of
Police Constable, Sion,
Police Station, Sion,
Mumbai.

... Respondents.
(Orig. Accused)

...
Mr. D. R. Markad, Advocate for Appellant.
Mr. N .D. Batule, APP for Respondent – State.
Mr. A. A. Nimbalkar, Advocate for Respondent Nos.2 to 6
...

CORAM : ABHAY S. WAGHWASE, J.
DATED : 20th FEBRUARY, 2024

JUDGMENT :

1. Dissatisfied by the judgment and order of acquittal passed by learned Judicial Magistrate First Class, Court No.2, Pathardi, Dist. Ahmednagar dated 07.03.2017, thereby, acquitting present respondents from offence punishable under sections 498A, 323, 504, 506 read with section 34 of Indian Penal Code (IPC), original complainant has taken exception to the same by filing instant appeal.

2. Learned counsel for appellant pointed out that, complainant was married to respondent Satyawar on 13.12.2009. Barely after a month also, there was cruelty on the count of not bringing sufficient dowry, not giving proper honours in the marriage. That, husband also demanded Rs.5,00,000/- for constructing house and on such count there was maltreatment. Complainant promptly informed about above treatment to her parents. They are all examined by prosecution. Complainant was driven out of the house. As all necessary ingredients for attracting

offence of 498A, 323, 504 and 506 of IPC were made out, conviction ought to have been recorded, but the learned trial Judge has failed to consider and appreciate this. There is improper appreciation, impugned judgment is sought to be set aside by allowing the appeal.

3. In answer to above, learned counsel for respondent would point out that, prosecution had miserably failed to establish any of the charge. There was false implication. There was no maltreatment as alleged. Moreover, it is pointed out that, Investigating Officer himself has admitted that accused persons already had their own house, therefore there is no question of any demand. He thus prays to dismiss the appeal for want of merits.

4. After considering the submissions and on going through the papers, it appears that, present respondents were made to face charge and tried for above sections.

5. It seems that, in support of said charge, prosecution examined in all four witnesses i.e. **PW1** Shivnanda complainant herself; **PW2** Shivprasad her brother; **PW3** Rajendra, maternal uncle of informant and **PW4** Babasaheb Gunjal, Investigating Officer.

6. On minutely going through the substantive evidence as well as cross, it is clearly emerging that, there are bald and omnibus allegations. Witnesses are deposing about harassment for not giving dowry and not giving proper honours. Specific details of the instances as to when it exactly happened is not coming on record from the mouth of the complainant. Except near dear ones no other independent witness is examined. Prime allegation is regarding demand of Rs.5,00,000/- for house. However, Investigating Officer in cross is found to be admitting that accused were already owning their house. Therefore, apparently allegations are baseless. Moreover, it transpires on initiation of divorce proceedings by husband, instant complaint has been filed.

7. Taking above material into consideration, as ingredients for offence under section 498A of IPC are patently missing, charge cannot be said to be proved. Resultantly, no fault can be found in the appreciation of learned trial Court. There being no merits, I proceed to pass the following order :-

ORDER

The criminal appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)