



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO. 69 OF 2019

Nirmala W/o. Arun Hake,
Age : 32 years, Occu. : Household,
R/o. Malewadi, Tq. Kaij, Dist. Beed.
At Present Chinchkhadi,
Tq. Ambejogai, Dist. Beed.

.... Applicant.
(Orig. Complainant)

Versus

1. Arun S/o. Ramesh Hake,
Age : 36 years, Occu. : Agri.,
R/o. Malewadi, Tq. Kaij, Dist. Beed.

2. Ramesh s/o. Kishan Hake,
Age : 59 years, Occu. : Agri.,
R/o. As above.

3. Prernabai w/o. Ramesh Hake,
Age : 54 years, Occu. : Agri.,
R/o. As above.

... Respondents.

...
Mr. Gopal D. Kale h/f. Mr. M. V. Nagargoje, Advocate for Applicant.
Mr. P. N. Nagargoje, Advocate for Respondents No.1 to 3.

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 MARCH 2024

PRONOUNCED ON : 08 MARCH 2024

ORDER :

1. Original complainant, who is dissatisfied by judgment and order of acquittal passed by learned Judicial Magistrate First Class, Ambajogai dated 25.02.2019 in R.C.C. No. 7 of 2012, has preferred instant application seeking leave to file appeal.

2. According to learned counsel for applicant, present respondent nos.1 to 3, who are husband and in-laws of complainant, subjected her to maltreatment on account of demand of Rs.50,000/- for purchase of motorcycle. Complainant had promptly reported the same to her parents and relatives. There was continuous beating in the backdrop of demand. That, evidence of complainant, witnesses CW2 Sangit Gadade, CW3 Vajinath and CW4 Harischandra, who was inspiring confidence, however, learned trial court erred in observing that they are not consistent. That, there is convincing evidence. That, complainant was forced to do heavy work and there was both physical and mental cruelty. However, in spite of positive evidence, learned trial Court has unfortunately acquitted the accused. Therefore, complainant intends to prefer appeal and hence he seeks leave.

3. Praying to dismiss the leave application, learned counsel for respondent pointed out that there was false implication. There was no demand or ill treatment either physical or mental. Testimonies of witnesses were inconsistent and therefore learned trial Court committed no error in acquitting the respondent. He invited attention of this court to paragraph nos.7, 8 and 9 of the judgment and prays to refuse leave.

4. After considering the submissions of both sides, here is an application seeking permission to question the judgment and order passed by learned Judicial Magistrate First Class, Ambajogai in R.C.C. No. 7 of 2012, tried for commission of offence punishable under sections 498A, 323 and 506 read with section 34 of Indian Penal Code (IPC), learned trial Court acquitted the accused.

5. It seems that, prosecution had adduced evidence of in all five witnesses to prove the charges. On going through the record, it seems that, accused husband and his parents i.e. accused nos.2 and 3 all are implicated.

6. Admittedly marriage is of 2004. Allegations of demand are since around 2006 and complaint is lodged in 2011. CW1 Nirmala complainant though speaks of being ill treated by keeping her starving, assaulting and driving out of the house, specific instances as to when it occurred has not been stated by her. Her mother PW2 Sangit speaks about her daughter being starved, assaulted and threatened to kill. Her versions is thus exaggerated as very complainant does not speak of being threat to kill. CW3 Vajjnath an acquaintance also gave a different version by stating that there was consistent beating and making her stand out of the house for hours together. Resultantly, witnesses are not consistent.

7. On going through the impugned judgment, learned trial court, prima facie, seems to have considered all above aspects and has thereby acquitted the accused. No case being made out on merits to grant leave, I proceed to pass the following order :-

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)