

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 397 OF 2017

Harjit Kaur Sukhdev Sing
Binder Heer, Age about 42 Years,
Occu. : Household, Residing at :-
F-11/Room No.6, Sector No.4,
Kalamboli, Tal. Panvel, District : Raigad. ...Applicant

Versus

1. Atmaram Namdeo Patil
Age about 55 years, Occu. : Contractor,
Residing at :- F/10/Room No.1,
Sector No.4, Kalamboli, Tal. Panvel,
District : Raigad.
2. Kashinath Harishchandra Mhatre
Aged about 55 years, Occu. : Service,
Residing at KL/5 Building, Sector 3,
Kalamboli, Tal. Panvel, District : Raigad.
3. State of Maharashtra ...Respondents

None for the Applicant.
Mr.A.D.Kamkhedkar – APP for Respondent No.3 – State.

CORAM : S. M. MODAK, J.
DATE : 30th JANUARY 2024

P. C. :-

1. It is true that this Revision is pending since 2017. Even it is not admitted for years. It is pending unattended. No circulation is even sought. That is how, pendency piles up. But, Court should not close its eyes. That is how, I have taken up the matter for hearing.

2. On 16th January, 2024, I have adjourned the matter and given one opportunity to the parties to address the Court. However, today no one is present. With the help of learned APP, I have perused the record.

3. There was an incident of outraging the modesty of the First-Informant. The incident took place in the cabin of Respondent No.1 on 19th December, 2009. The First-Informant went to his cabin with the grievance about unjustified demand of recovery of Rs.1,92,038.77 (Rupees One Lakh Ninety Two Thousand Thirty Eight and Seventy Seven Paise Only). There were two flats. One is flat No.6/F-11, Sector No.4 in which the First-Informant resides. Whereas, her husband purchased an adjoining flat by way of registered sale-deed dated 19th May, 2009 from one Anwar Husain Akbar Husain. Accused No.1 being the Office bearer of the Society issued a notice of recovery of charges, whereas, First-Informant pleaded that the earlier owner has cleared the dues and that is how, the demand was unjustified. The incident of outraging the modesty took place during heated exchange of words. Accused No.1 took the help of Accused No.2 and the First-Informant was wrongfully confined. Somehow, she could escape and then, lodged complaint with the Police. It was not registered as an FIR but at a non cognizable complaint for the offences punishable under Sections 504, 506 read with 34 of Indian Penal Code, 1860 ["IPC"]. The First-Informant felt aggrieved, lodged a private complaint. She was successful in obtaining

an order under Section 156(3) of the Code of Criminal Procedure, 1973 [“Cr.P.C.”]. The Police filed charge-sheet for the offences under Sections 323, 341, 354, 504, 506 read with 34 of IPC.

4. During trial, four witnesses were examined. They are as follows :-

- (a) First Informant
- (b) Her sister
- (c) Her husband
- (d) Investigating Officer

5. The trial Court acquitted the Accused. First-Informant was not satisfied and that is how, she filed a Criminal Appeal No.14 of 2015. The Sessions Court refused to interfere in the said order and dismissed the Appeal as per the judgment dated 18th April, 2017 (Page No.22). The said order is under challenge by way of this Revision Application.

6. It is a settled law that presumption of innocence is reinforced when there is a judgment of acquittal. It is strengthened more when the judgment of acquittal is confirmed by the Appellate Court. So, hardly there will be any scope for revisional Court. Even it is settled that the revisional Court cannot convert a judgment of acquittal into a judgment of conviction. Even it is settled law that there is hardly any scope for reappraisal of evidence. It is true that only judgment of the Appellate Court is made available. Except that, there is no other material placed on record by the First-Informant.

7. With the help of learned APP, I have gone through the impugned

judgment. The Appellate Court extensively dealt with the reasoning given by the trial Court. Even dealt with the judgments relied upon by the Applicant in Para No.9 and the relevant observations in Para Nos.14, 15 and 16. The Appellate Court finds that the demand for arrears is justified because there was dispute amongst the Office bearers of the Society and the demand made by Accused No.1 was justified. The Appellate Court noticed the contradictions in between the testimony of First-Informant and her sister in Para No.20. The Appellate Court noticed the political background of the First-Informant and Accused No.1 in Para No.21. They are from different political parties and there is background of contesting the election and the First-Informant being the looser. The Appellate Court noticed the lacuna in Prosecution case about not proving spot and seizure panchnama of articles (Para no.22). The Appellate Court could notice absence of medical evidence when the charge was under Section 323 of IPC.

8. In view of the above, no ground is made out for exercise of revisional jurisdiction. This Court cannot reappreciate the evidence. So, there is no merit in the Revision. Hence, it is dismissed.

[S. M. MODAK, J.]