



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL REVISION APPLICATION NO. 172 OF 2024

Shrikrushna s/o Pundalikrao Jadhav
Aged about 40 years,
Occ.: Labour, R/o. Dhamori Kasba,
Tq. Bhatkuli, Dist. Amravati

}

... Applicant

Versus

State of Maharashtra,
Through Police Station Officer,
Police Station City Kotwali,
Amravati.

}

... Non-applicant

Mr. Siddhant I. Ghatte, Advocate for applicant.
Mr. H.D. Marathe, APP for non-applicant/State.

CORAM : RAJNISH R. VYAS, J.
DATE : 20.09.2025.

ORAL JUDGMENT:

Application is taken for final hearing with the consent of
both the learned counsels for the parties.

(2) The applicant is the original accused. He has challenged order convicting him for commission of offences punishable under Section 509 of the Indian Penal Code directing him to suffer imprisonment for one year so also to pay the amount of fine, by learned Chief Judicial Magistrate, Amravati in Regular Criminal Case No.323/2016.

(3) Being aggrieved by the said judgment, the applicant preferred an appeal bearing Criminal Appeal No.146/2018. However, learned Additional Sessions Judge-2, Amravati, on reconsideration of evidence, dismissed the appeal. Hence, this revision before this Court.

(4) I have considered the entire material on record while deciding the criminal revision application. Needless to mention the revisional powers can be exercised when there is perversity in finding, admission of inadmissible evidence etc.

(5) I have heard the learned counsel Mr. Ghatte, for the applicant and learned APP Mr. Marathe, for the non-applicant/State.

(6) Mr. Ghatte, learned counsel for the applicant has brought to my notice testimony of PW-2, who is victim. According to PW-2-victim, on 30.10.2016 when she was travelling in a bus, the applicant was also travelling in the same bus. The applicant, who was not known to victim was sitting on the front seat changed his position and sat on front seat. He, thereafter, outraged the modesty by unzipping his pant and showing his private part.

(7) PW-3-Manisha, is the friend of PW-2, who has also supported the case of PW-2/victim. According to both PW-2 and PW-3, when modesty of PW-2 was outraged, both of them, caught hold of the applicant and with the help of PW-6, the applicant was taken into custody. The incident was immediately reported to the Police authorities and consequently, on the same day within few hours First Information Report (Exhibit 10) was lodged.

(8) According to Mr. Ghatte, learned counsel for applicant, story advanced by the prosecution is not believable since PW-2 and PW-3 are advancing two different stories. In order to supports his case, he points out that according to PW-3, the applicant was sitting on the backside, whereas according to the PW-2, applicant was sitting on front seat. Mr. Ghatte, further states that the applicant and the victim were not known to each other and non-conducting of test identification parade goes to the root of the matter and therefore, the applicant is liable to be acquitted. He further says that both the Courts have not appreciated evidence on record in proper manner and therefore, revision needs to be allowed.

(9) Per contra, Mr. Marathe, learned APP for the State has supported the impugned judgment. According to him, the ingredients of Section 509 of Indian Penal Code were duly made out by testimony of PW-2,

PW-3 and PW-6. According to him, since there are concurrent finding of facts while exercising revisional jurisdiction, Court may not disturb the findings rendered by the trial Court as well as appellate Court.

(10) I have given my thoughtful consideration to the arguments advanced by both the parties. Incident had taken place on 30.10.2016 when the informant, PW-2 and PW3, so also the applicant were travelling in the bus. The applicant unfortunately did the act narrated above which resulted into outraging the modesty of PW-2-victim. PW-2 has categorically narrated the incident. Nothing has been brought on record to show that there was earlier enmity between the applicant and PW-3, or PW-2 and therefore there was any possibility of false implication. Both were unknown to each other and therefore, the question of false implication would not be material. So far as non-conducting of test identification parade is concerned, it can be said that the said procedure is required to be followed where the Investigation Officer forms an opinion that it may go to the root of the matter. In the instant case, incident had taken place on 30.10.2016 and the depositions of PW-2 and PW-3 were recorded on 05.09.2017. Thus, it is hardly a period of one year which has lapsed. Even otherwise no question was put to the witnesses in cross-examination for non-conducting test identification parade. If the line of cross-examination is seen, it would be clear

that the applicant has contended that it may be a case of mistaken identity. The prompt lodgment of First Information Report so also the fact that applicant was taken in custody immediately after incident with the help of PW-6, who is the Police Officer, clearly shows that prosecution has proved its case beyond reasonable doubt. It is further necessary to mention here that though opportunity was given to the applicant to explain the case, by way of recording statement under Section 313 of the Code of Criminal Procedure, the applicant did not take any specific stand but answered most of the questions by replying it as false. Had there been any genuine explanation, the Courts below could have taken the same into consideration.

(11) In view of the observations made above, there is absolutely no case made out which requires interference while exercising revisional jurisdiction. The criminal revision application, is thus, dismissed.

[RAJNISH R. VYAS, J.]

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