IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 132 OF 2018

SHIVDAS TULSHIRAM BORKAR
VERSUS
THE STATE OF MAHARASHTRA
...
Shri Lathe B. G., Advocate for the Applicant.
Shri C.V. Bhadane, APP for the Respondent/ State.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 05 October 2026

P. C. :-

1. Heard the learned advocate for the respective parties.

2. The applicant/ accused is challenging the judgment and order dated 20.04.2018 passed by the learned Additional Sessions Judge, Jalna, in Criminal Appeal No.44/2013 whereby, the appeal of the applicant came to be dismissed. In the said appeal, the applicant had challenged the judgment and order dated 29.05.2013 passed by the learned JMFC, Jafrabad, in STC No. 24/2011 wherein, the applicant was convicted for the offence punishable under Section 354 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for three months with

fine of Rs.500/- and in default, to suffer rigorous imprisonment for 10 days.

3. The learned advocate for the applicant submits that the applicant has undergone sentence of 10 days. The learned Trial Court as well as the Appellate Court have not considered evidence on record in proper perspective. The prosecution has failed to prove the case beyond all reasonable doubt and as such, the charge under Section 354 cannot be said to be proved against the applicant. The learned advocate further submits that testimony of PW-1/ informant is not at all supported by PW-2 and PW-3, who happen to be the husband and father-in-law of the informant, respectively. The informant being the sole interested witness, her testimony requires to be examined with great caution. According to the learned advocate, the informant in her deposition has stated that on the date of incident, the applicant has come to her field when she was doing agricultural work and the applicant has allegedly grabbed her from behind and outraged her modesty. When the informant made hue and cry, the applicant fled away from the spot and after the incident, the relatives of the informant came there and they have lodged

the report. Thus, according to the learned advocate, there is delay of six hours in lodging the FIR and delay is not properly explained by the prosecution. The learned advocate submits that the conviction cannot be based upon such insufficient and unreliable evidence. He, therefore, prays for allowing the revision application.

4. *Per contra*, the learned APP strongly opposes the revision application and submits that the applicant has been rightly convicted by the Trial Court after considering the evidence on record. There are concurrent findings of the Courts below. This court's revisional jurisdiction is very limited. The applicant has not pointed out before this Court any glaring defect in the impugned orders. Since there is no miscarriage of justice, this Court may not interfere with the findings of the Courts below. The learned APP, therefore, prays for dismissal of the revision application.

5. With the assistance of the learned advocates for the parties, I have gone through depositions of the prosecution witnesses. The informant/ prosecutrix in her deposition clearly deposed that on the given date and time, the applicant had

outraged her modesty. The informant/ prosecutrix was cross-examined at length, however, nothing was brought on record by the defence so as to disbelieve her evidence. Depositions of PW-2 and PW-3 have also been perused and same fully corroborates with the version of the prosecutrix. Admittedly, the in-laws of the prosecutrix arrived after the applicant/ accused fled away from the spot, therefore, they have not witnessed the applicant on the spot. In view of corroboration of witnesses, the testimony of the prosecutrix is inspiring confidence. There is no reason to depose against the applicant.

6. In view of the above discussion, the impugned orders passed by the Courts below are absolutely correct, proper and requires no interference. Having regard to the limited scope of revisional jurisdiction, this Court would not ordinarily interfere with concurrent findings of fact unless the findings are shown to be perverse, manifestly erroneous, illegal or resulting in miscarriage of justice. On independent consideration of the evidence of the witnesses, I find that the findings recorded by the Courts below are based on evidence available on record and cannot be said to be perverse or manifestly illegal. As no

illegality and perversity is found in the impugned judgments, I am of the opinion that there is no merit in the instant Criminal Revision Application. Hence, the conviction needs to be maintained.

7. However, so far as the question of sentence is concerned, it is stated that the incident occurred in the year 2010. The applicant is presently aged about 55 years and has no previous criminal antecedents. The applicant has faced the criminal proceedings for considerable period of about 17 years. Having regard to the nature of the offences, the age and antecedents of the applicant, the fact that the incident is of the year 2010 and the long passage of time, I am of the view that the substantive sentence of imprisonment imposed upon the applicant deserves to be modified. At the same time, the conviction recorded by the Courts below does not warrant any interference. Having regard to the facts and circumstances of the case and in order to compensate the informant, the applicant is directed to pay an amount of Rs.10,000/- (Rupees Ten Thousand) to the informant by way of compensation as per Section 357 of the Code of Criminal Procedure. The compensation amount shall

be paid to the informant on such deposit. Hence, the following order:-

ORDER

(a) The Criminal Revision Application is partly allowed.

(b) The conviction of the applicant for the offence punishable under Section 354 of the Indian Penal Code is maintained.

(c) The substantive sentence of imprisonment imposed upon the applicant by the learned JMFC, Jafrabad, and confirmed by the learned Additional Sessions Judge, Jalna, is modified. In lieu of the sentence of imprisonment and fine imposed by the learned Trial Court, the applicant shall pay an amount of Rs.10,000/- (Rupees Ten Thousand) by way of compensation to the informant.

(d) The aforesaid amount shall be deposited before the learned Trial Court within a period of one month from today. On such deposit, the same shall be paid to the informant.

(e) In the event of failure on the part of the applicant to deposit the aforesaid amount within the stipulated period, the amount shall be recoverable in accordance with law.

(f) The record and proceedings be returned to the concerned Court.

kps (SUSHIL M. GHODESWAR, J.)