



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 105 OF 2024

Shakuntala W/o. Ramakant Swami,
Age : 48 years, Occu. : Household,
R/o. Andhori, Tq. Ahmedpur,
Dist. Latur.

... Applicant
(Orig. Complainant)

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Kingaon,
Tq. Ahmedpur, Dist. Latur.
2. Irappa @ Balaji S/o. Dnyanoba Shingde,
Age : 33 years, Occu. : Agriculture,
3. Vatsalabai w/o. Dnyanoba Shingde,
Age : 58 years, Occu. : Agriculture,

No.2 and 3 both R/o. Andhori,
Tq. Ahmedpur, Dist. Latur.

... Respondents
(R-2 & 3 accused nos.1 and 2)

.....

Mr. Santosh B. Gastgar, Advocate for Applicant/Petitioner.
Mr. S. M. Ganachari, APP for Respondent No.1-State.
Mr. Avinash Lavharale h/f. Ms. Prajakta P. Deshmukh, Advocate for
Respondent Nos.2 and 3.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 18 FEBRUARY 2026

PRONOUNCED ON : 23 FEBRUARY 2026

ORDER :

1. Revisionist/original complainant, who set law into motion vide
FIR No.05 of 2015 for offence punishable under sections 452, 294, 323, 504

and 506 read with section 34 of Indian Penal Code, is dissatisfied by order of acquittal passed by learned First Appellate Court in Criminal Appeal No. 12 of 2022 setting aside the judgment and order of conviction passed by learned Judicial Magistrate First Class, (Court No.2), Ahmedpur in R.C.C. No.63 of 2015 passed on 11.10.2022.

2. Learned counsel for revisionist would point out that, alleged incident is of 29.01.2015. That, officials of Grampanchayat had come for measurement of their house property. That time, accused initially prevented them from carrying out measurement and further assaulted husband of revisionist Ramakant, and subsequently forced in her house and assaulted her. That, report to that extent was lodged and crime was registered.

3. He next submitted that, prosecution before the trial court had adduced evidence of almost nine witnesses including that of her husband Ramakant, who was also victim. That, there was also evidence of independent witnesses, who had intervened and rescued the quarrel. Thus, case of prosecution was proved by adducing evidence of informant herself as well as her husband and independent witnesses. Medical expert was also examined, and therefore, prosecution story regarding assault causing injury and committing trespass was made out before learned trial court, which has correctly appreciated the prosecution case and recorded guilt of the accused.

4. According to learned counsel for revisionist, above judgment was well reasoned and sound, and on the basis of both ocular and documentary evidence, there was no infirmity or error on the part of learned trial court, and as such, learned First Appellate Court ought not to have interfered, but it did so, and rather overturned the well reasoned judgment of learned trial court and acquitted the accused. According to learned counsel, there is incorrect appreciation of evidence and even when case was proved beyond reasonable doubt, benefit of doubt has been given. Therefore, he prays to allow the revision by setting aside the impugned judgment and order.

5. Per contra, learned counsel for respondents original accused would point out that, there was false implication due to previous enmity. That, evidence of complainant and her husband was not inspiring confidence. That, injuries suffered were shown to be due to fall. That, witnesses were not consistent on the alleged occurrence, and moreover, complainant herself had not seen the occurrence and she herself has not lodged report, but it is at the behest of her nephew, but said witness was not examined, and therefore, when learned trial court convicted the respondents original accused on above evidence, learned First Appellate Court has rightly interfered. For above reasons, he justifies the order of acquittal and prays to dismiss the revision for want of merits.

6. This being revision, while exercising powers under section 397 of Cr.P.C., this court is merely expected to test the legality, propriety or illegality in the findings recorded by learned trial court. Such powers are to be exercised to prevent miscarriage of justice and when there are clearing errors on the face of order or there is failure and non compliance of law. Re-appreciation is to be avoided unless findings are patently perverse and as such, is the narrow scope of revisional court. Law regarding the scope of revision is elucidated in catena of judgments. Though there are catena of judgments, the landmark judgment of ***Amit Kapoor v. Ramesh Chander and another*** (2012) 9 SCC 460 is relied and the relevant observations therein are borrowed and quoted as under :

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well -founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or

perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the CrPC."

7. Keeping the above settled legal position on record, evidence and impugned order are put to scrutiny.

8. Re-appreciated and re-analyzed the entire evidence. Here, learned Judicial Magistrate First Class has convicted the respondents for offence punishable under sections 451 and 323 of IPC by judgment and order dated 11.10.2022. Learned Additional Sessions Judge, who was the First Appellate Court allowed the appeal of respondents original accused bearing Criminal Appeal No.12 of 2022.

9. As pointed out, though complainant Shakuntalabai has deposed in the capacity of PW1, in cross examination, she admitted that report was written by her nephew, but admittedly he is not examined. Learned First Appellate Court has doubted the prosecution version, more particularly testimony of complainant on the ground that it is doubtful whether she is an eye witness. On those lines, if evidence of this witness is considered, indeed, this PW1 has stated that while she was in the house, hearing chaos, she came out and at that time, she claims that both accused had met her at the doors and they assaulted her.

10. Therefore, she is not party to the alleged assault on her husband Ramakant regarding which she deposed.

11. According to PW1 complainant, Balaji hit her on the head, resulting in bleeding. As regards to injuries suffered by her, from the medical certificate placed on record, there does not seem to appear to be history of assault and on the contrary, history is reported due to fall on account of giddiness.

12. Therefore, learned First Appellate Court rightly observed that, PW1 complainant, who has set law into motion, cannot be said to be a direct eye witness.

13. PW2 Ramakant is the husband of complainant. According to

him, while measurement was going on, at that time, Balaji came out of the house with stick, claimed ownership and possession of the land and objected to the measurement. According to him, Balaji assaulted on his thigh and abused him. He attributed beating to both Balaji as well as Vatsalabai. He also stated that, hearing the commotion, her wife came at the doors of house and at that time, both accused went towards the house and even Balaji again assaulted her too with the stick on the thigh and hands. Whereas Vatsalabai caught hold of her heir and banged it on the floor and thereafter abused her.

In cross, he admitted that, there are court proceedings lodged against father of accused.

14. PW3 Bapurao stated that, he acted as panch to panchanama (Exh.26) i.e. spot panchanama. PW4 Dnyanoba is panch to seizure of stick, but it is of 06.02.2015 i.e. at the very belated stage when the alleged occurrence is of 29.01.2015.

15. PW5 Dattatray is an acquaintance of both accused and complainant and according to him, while he was at the spot while measurement is going on, Balaji hit stick to Ramakant and he also beat wife of Ramakant, whereas accused no.2 gave slaps and abused. However, in cross, he admitted that, father of accused no.1 happens to be his maternal

uncle and there is properly dispute between them. However, he expressed ignorance about any civil dispute between complainant and Dnyanoba.

16. PW6 Dnyaneshwar is the Investigating Officer. PW7 Waman stated that, both accused assaulted Ramakant on leg with stick. His version is contrary to that of very complainant as complainant has alleged assault by accused no.1 Balaji on Ramakant and not both accused. There is recovery of only one stick so as to both accused assaulted by means of stick. Therefore, his testimony is not credible.

17. Therefore, with above quality of evidence, there are reasons to extend the benefit of doubt as complainant's version and her husband's version do not tally about the actual occurrence, and moreover, there is belated FIR. Admittedly, parties are in inimical terms, and therefore, with such quality of evidence, when learned First Appellate Court has granted benefit of doubt, there being no reason to discard such findings. This court also does not find any reason to interfere in the same. Hence, the following order is passed :-

ORDER

The Criminal Revision Application is dismissed.

(ABHAY S. WAGHWASE, J.)