
(2024) 12 BOM CK 0011

Bombay High Court

Case No: Criminal Revision Application No. 199 Of 2002

Ravindra Waghu Jadhav

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision: Dec. 2, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 397
- Indian Penal Code, 1860 - Section 498A

Hon'ble Judges: Milind N. Jadhav, J

Bench: Single Bench

Advocate: Sonia S. Miskin, D.S. Krishnaiyar, B.B. Khade

Final Decision: Partly Allowed

Judgement

Milind N. Jadhav, J

1. Heard Ms. Miskin, learned Appointed Advocate for the Applicant and Ms. Krishnaiyer, learned APP for the State.

2. This Revision Application is filed by the Applicant (husband) to challenge the Judgment and Order passed by the Sessions Court in Appeal

upholding the sentence and conviction of the Applicant under Section 498A of the Indian Penal Code, 1860 and convicting and sentencing the

Appellant to undergo Rigorous Imprisonment for 3 months and to pay fine of Rs.1000/-, in default to undergo R.I. for 15 days. Though there are

concurrent judgments, which are before me, the learned Advocate Ms. Miskin appointed by this Court to represent and espouse the cause of

Applicant, has taken me through the record of the case.

3. Briefly stated, Revision Applicant was working as Engine Driver in the Indian Railways. He married the First Informant-Complainant (wife), who has deposed in the trial as Prosecution Witness No.1 and three children are born out of the wed-lock. Today, Applicant before me is 67 years old whereas the wife - Minabai is 60 years old.

4. Before I advert to the merits of the matter, it would be pertinent to refer to a letter / communication dated 1st

December, 2024 addressed by the wife viz. Minabai to this Court. It is stated in the said letter that at present the Applicant, she herself along with her

three children are living happily together. Perusal of the record shows that one of the reasons rather allegation considered by the Trial Court and

upheld by the Sessions Court while passing the twin impugned judgments was the relationship of Revision Applicant with another person (called

Maria). In the letter addressed to the Court, the First Informant-Complainant has informed the Court that the said person called Maria expired long

back, pursuant to which, both parties viz. Applicant and First Informant-wife settled their differences and since a long time they have been living

happily together. In the letter, First Informant - wife has informed the Court that since the year 2010 until today they have been residing together

thereafter. Revision Application will have to be determined on its own merits considering the twin judgments passed by both the Courts below,

considering that this was also one of the principal allegation which led to the filing of complaint under Section 498A IPC by Applicant's wife against

him.

5. The judgment of the Trial Court dated 14.06.2001 is appended at page No. 38. Complaint was lodged by wife (PW-1) against Revision Applicant on

13.03.1993. Due to the bad vices of the Applicant, she had to approach the law enforcement agency against the ill-treatment meted out to her by

Applicant. The charge of First Informant-wife against Applicant was for treating her with cruelty and demanding dowry amount of Rs. 50,000/-.

Charge under Section 498A IPC was framed below Exhibit - 8 on 17.06.1999. In defence, Revision Applicant stated that even at the time of filing of

complaint, parties were married for more than 20 years and that they have three children, but only due to the instigation by relatives, false complainant

was lodged by his wife against him. Prosecution examined 7 witnesses in the trial and it is seen that except PW-6 and PW-7, the other 5 witnesses

are the relatives of first informant - wife - Complainant who are her father, her brothers and her two sons. The principal charge as can be seen

according to PW-1 was the Applicant ill-treated her after consuming liquor at the instigation and the influence of the third person in their life viz. Ms.

Maria. What is important to note are the depositions of the two sons of the parties before me. Ganesh, one of the son who is PW-3 has deposed that

as far as he remembered all that Applicant did was to consume liquor and occasionally beat the Complainant and the children. However, due to his

deposition that except for consuming liquor he had no other bad habits, the trial Court declared him hostile. Further deposition of the elder son Sandeep

- PW-4 was also on similar lines. However, depositions of both sons reveals one fact that both of them started living separately once they had grown

up and therefore, their evidence could not have been accepted by the learned Trial Court to determine the charge of cruelty made by their mother.

There are no set of facts which are pleaded to determine the charge of cruelty or threat given by Revision Applicant demanding from the First

Informant - wife - Complainant to bring Rs.50,000/- from her father and/or transfer the flour mill belonging to her father in his name. Essentially it is

seen that because of the relationship of Applicant with the third person viz. Ms. Maria, there were issues between the parties. It is seen that after

their marriage, both Revision Applicant and the First Informant - wife were together for almost 20 years until the present issue and dispute between

the parties surfaced. The Investigating Officer has deposed that there was a incident of FIR lodged against the Applicant 4/5 years back for ill-

treating the First Informant - wife under the influence of liquor. Save and except this statement, nothing is placed on record to prove the same. The

prosecution case was accepted by the learned Trial Court and Revision Applicant was convicted for offence punishable under Section 498A and

sentenced to suffer R.I. for three months and pay fine of Rs.1000/- and in default to undergo further R.I. for 15 days. The said judgment was

considered by the learned Sessions Court in Criminal Appeal No. 55 of 2001 and in view of the reasons given in paragraph 9 onwards, judgment of the

Trial Court was upheld and appeal was dismissed. It is pertinent to note that in the evidence of the prosecution witnesses, there were clear omissions

and additions which have been noted by the Trial Court while analyzing the reasons and also by the learned Appellate Court in paragraph No.16 of the

impugned judgment. However, despite the same, both Courts below have come to the conclusion that the available evidence was corroborated by

medical evidence which was placed before Court in the form of injury certificate and of incident of beating Complainant on 03.04.1999 and 12.04.1999.

It is seen that those injury certificates which have been used to corroborate the evidence on record to fortify the case of prosecution were infact

issued three days after the date of the incident. This fact has been noted by the Appellate Court, but it has been left at that itself without concluding on

the same. Therefore interference of this Court under Section 397 of Cr.PC is called for. That apart, the concerned doctor/medical officer was not

examined by the prosecution and this fact is one of the aspect which ought to have weighed with the Courts below. Barring the aforesaid

discrepancies, omissions and additions in the prosecution case, the rest of the case of the prosecution has been accepted by the learned Trial Court

and upheld by the Appellate Court. The prosecution evidence relied upon interested witness and was undoubtedly given in favour of the First

Informant. Undoubtedly some incidents took place, inter alia, leading to filing of the complaint by the First Informant - Complainant.

6. It is seen that one of the reason leading to the incident was the addiction of Revision Applicant to liquor. The evidence of PW-1 i.e. First Informant-

wife also cannot be disbelieved in its entirety because she has narrated the reasons for leading to the incident in question.

7. I am informed that Revision Applicant has undergone 12 days of sentence after which he has been released on bail.

8. Considering the evidence before the Trial Court and the consideration of the said evidence by the Trial Court and the Appellate Court while passing

the twin judgments of conviction and sentencing the Applicant, I am of the view that in view of the omissions, additions and discrepancies and the

medical evidence in the form of injury certificate, the sentence which has been suffered by the Revision Applicant of 12 days is adequate to uphold

the adjudication and fine awarded by the learned Trial Court and upheld the learned Appellate Court.

9. In that view of the matter, sentence awarded by the learned Trial Court for three months' R.I. stands substituted by the sentence of 12 days which

has already been undergone by the Applicant. Insofar as fine of Rs.1,000/- is concerned the Revision Applicant is directed to pay the said fine

Rs.1,000/- within two weeks of the uploading of this judgment and in default of non-payment of fine, he shall undergo R.I. for 15 days.

10. The Revision Applicant is before me. He is directed and explained in Marathi language about the passing of this judgment and he has agreed to

pay a fine amount of Rs.1,000/-. He has informed the Court that he is now a retired employee -pensioner of the Indian Railways and is happily

residing with his wife and two children. He would also inform the Court that his wife is extremely sick and bed-ridden due to a serious medical ailment

and he is now taking care of her.

11. Bail bond of the Applicant stand cancelled.

12. In the present CriminalÂ Revision Application, Ms. Miskin learned Advocate is appointed through the Legal Aid Services Committee, High Court,

Mumbai. She has ably assisted the Court. Her professional fee quantified as per Rules be paid to her by the High Court Legal Aid Services

Committee, Mumbai, within a period of two weeks positively upon a server copy of this order/judgment presented by her to the Committee along with

her Application in accordance with law.

13. With the above directions, Revision Application stands partially allowed.