



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.1447 of 2003

The State of Maharashtra ... Appellant.

Vs.

1. Jamir Ahmed Shaikh

Age: 29 yrs,

2. Mohamad Rumeth Ahmed Shaikh

Age: 24 yrs,

3. Smt Najma @ Najmunnisa Shaikh

Age: 50 yrs,

All residing at Yeshoda Apartment,
Flat No.3, Wadala road,Dwarka Nashik.

**(Abated as per Court's order
dt. 24.2.2026)**

... Respondents/
(Org. Accused)

Ms Sangeeta E Phad, APP for the State/ Appellant.

Ms Aishwarya Sharma, appointed Advocate through High
Court Legal Services Committee, Mumbai, for respondents
no.1 and 2.

Coram : R.N.Laddha, J.

Date : 1 April 2026.

P.C. :

By the present appeal, the appellant/ the State seeks to
assail the judgment and order dated 18 April 2006 passed
by the learned Chief Judicial Magistrate, Nashik, in RCC
No.428 of 2001, whereby the respondents (accused Nos.1



and 2) were acquitted of the offences punishable under Sections 498A, 323, 504 and 506 read with 34 of the Indian Penal Code ('IPC'). During the pendency of the present appeal, respondent No.3 expired, and therefore, by an order dated 24 February 2026, the appeal stood dismissed as abated against respondent No.3.

2. The prosecution's case, in brief, is that the complainant is the wife of accused No.1/ respondent No.1 and their marriage was solemnised on 28 April 1997. It is alleged that, from the fifth day of the marriage, the accused began subjecting her to harassment with the intent of extracting dowry, specifically demanding furniture and a vehicle. The complainant reported these incidents to her father (PW-2), who cautioned the accused against such conduct; however, his intervention proved ineffective. It is further alleged that accused No.1 began physically assaulting the complainant on suspicions regarding her character, while the other accused frequently subjected her to verbal abuse. On 21 April 2001, the accused are stated to have demanded a sum of Rs.50,000/- for the purchase of a vehicle, Tata Sumo. During this period, accused No.1 allegedly inflicted severe physical violence upon the



complainant, reproaching her for failing to procure the demanded amount. The complainant again informed her father, who subsequently admitted her to National Hospital, Nashik. The allegations indicate that she was subjected to physical and mental harassment at the hands of accused No.1 in connection with dowry demands.

3. Upon completion of the investigation, a charge sheet came to be filed. The respondents denied the accusations and claimed to be tried. To substantiate the charge, the prosecution examined six witnesses, viz., Shirine Jamir Shaikh, the complainant (PW-1); Mhaboob Bademiya Shaikh, father of the complainant (PW-2); Rajiya Hamid Shaikh, the complainant's aunt (PW-3); Dr Hasib Gafar Shaikh, Medical Officer at National General & Accidental Hospital (PW-4); Shaikh Mustak Hamid, brother of the complainant (PW-5); and Dattatraya Bhikaji Newade, Investigating Officer (PW-6). After the prosecution concluded its evidence, the statements of the accused were recorded under Section 313 of the Code of Criminal Procedure, 1973. The accused denied the incriminating circumstances and examined one Narayan Genu Misal (DW-1) in defence. Upon appreciation of the evidence on record,



the learned trial Court acquitted the respondents. Being aggrieved thereby, the State has preferred the present appeal.

4. I have heard Ms Sangeeta Phad, the learned Additional Public Prosecutor representing the appellant/ State, and Ms Aishwarya Sharma, the learned Counsel appointed on behalf of the respondents, and with their able assistance, perused the entire record and proceedings.

5. The substratum of the prosecution case rests primarily upon the oral testimony of the complainant (PW-1), which is sought to be corroborated by her close relatives and a solitary piece of documentary evidence in the nature of a letter (Exh.19), along with medical evidence. The testimony of PW-1, though central to the prosecution, does not inspire implicit confidence when tested on the anvil of consistency, probability, and corroboration. While PW-1 deposed that ill-treatment commenced within a few days of marriage and continued over a period of years, there is a conspicuous absence of any contemporaneous complaint or report to any authority during this prolonged period. PW-1, in fact, admitted that except for the present complaint, neither she



nor her father had lodged any complaint at any police station prior thereto. Such inaction assumes significance, particularly when the allegations pertain to repeated physical assaults and persistent dowry demands. Pertinently, PW-1 admitted in her cross-examination that no demand for dowry was made at the time of the settlement of marriage, which contradicts the prosecution theory of a continuing dowry demand originating from the matrimonial arrangement. It is further material that she admitted that Rs.50,000/- would not suffice for the purchase of a Tata Sumo vehicle, thereby rendering the alleged purpose of demand inherently improbable.

6. Material omissions and inconsistencies are also evident. PW-1 admitted that she had not sent any prior letters or complaints before Exh.19, and that she did not approach the nearby Dwarka Police Chawki immediately after the alleged incident. Her version regarding continuous ill-treatment over 4 to 5 years is thus unsupported by any contemporaneous record. Further, the allegations against accused Nos.2 and 3 are omnibus in nature, without specific overt acts attributed to each accused, thereby weakening the prosecution's case *qua* them.



7. The prosecution has placed considerable reliance on the letter (Exh.19), purportedly written by PW-1 to her father. However, this document is shrouded in doubt. Firstly, it finds no mention in the FIR or the initial complaint. Secondly, the Investigating Officer (PW-6) conceded that the existence of such a letter came to light only during the course of the investigation through a supplementary statement, and that there is no reference to the said letter in the original complaint at all. This belated introduction of a material document casts serious doubt on its genuineness. That apart, the evidence regarding the transmission of this letter remains inconsistent. While PW-1 claims to have sent it through her brother, PW-5 attempts to support this version, yet both PW-5 and PW-6 have admitted that such a fact is not reflected in the police statement. These omissions and contradictions materially affect the authenticity and evidentiary value of Exh.19.

8. Furthermore, the testimonies of PW-2 (father) and PW-3 (aunt) are essentially derivative and based on what PW-1 allegedly narrated to them. Such evidence is in the nature of hearsay and requires strong independent corroboration, which is lacking. In addition, both PW-2 and



PW-3 have made improvements over their earlier statements. PW-2 has admitted that his police statement does not contain allegations that all the accused had assaulted the complainant. Similarly, PW-3's version regarding her presence at Nashik at the relevant time, receipt of telephonic information, and the sequence of events is not borne out from her police statement. She has admitted that several material particulars, including the details of the alleged phone call and her movements, were not disclosed to the police. These discrepancies are not minor in nature but go to the root of the prosecution's case.

9. PW-5, the cousin of the complainant, has attempted to support the prosecution by deposing about the alleged demand of dowry, ill-treatment, and the incident dated 21 April 2001. He has also testified about the letter (Exh.19), stating that it was handed over to him by the complainant for delivery to her father. However, his evidence is marred by material omissions and inconsistencies. He admitted that the fact of the complainant handing over the letter (Exh.19), the receipt of telephonic information, and the presence of his mother are not stated in his police statement. He further admitted that despite receiving



information, he did not immediately go to meet the complainant, which appears unnatural conduct. Additionally, he could not explain why several material facts deposed before the Court are absent from his earlier statement. His testimony, therefore, appears to be an improved version and lacks reliability.

10. The medical evidence adduced through PW-4 does not lend conclusive support to the prosecution case. PW-4 has categorically stated that the cause of the injuries could not be ascertained and that such injuries are equally possible by accidental means, including contact with a hard surface. He further stated that no external injuries, abrasions, or bleeding were observed, and the X-ray report was normal. Significantly, PW-4 admitted that the complainant did not disclose the cause of her injuries at the time of examination. He has also acknowledged that, despite the case bearing medico-legal characteristics, he did not inform the police as required under established procedure. These deficiencies materially weaken the probative value of the medical evidence and fail to establish any definitive nexus between the alleged injuries and the purported assault.



11. The evidence of PW-6 indicates material infirmities in the investigation. PW-6 categorically admitted that Exh.19 was not mentioned in the original complaint and surfaced only during the investigation. He has also conceded that certain allegations deposed to by the witnesses are absent from their police statements, indicating improvements at trial. PW-6 also stated that the Medical Officer's statement was not recorded and offered no satisfactory explanation for the delay in lodging the complaint on 25 April 2001 instead of 21 April 2001, when the alleged incident occurred, especially given the proximity of the police station.

12. The defence examined DW-1, an Executive Engineer with MSEB, who produced the attendance register (Exh.42) reflecting that accused No.1 had marked his presence on duty on 21 April 2001, with a view to casting doubt on the prosecution version, particularly concerning the alleged incident dated 21 April 2001. DW-1's testimony indicates that attendance is recorded by way of signature at the commencement of working hours, and in the ordinary course, such a record carries a presumption of regularity. This circumstance lends support to the defence contention



that accused No.1 had attended his place of employment on the date of the alleged incident. The evidence of DW-1 introduces a plausible alternative and creates a reasonable doubt regarding the presence of accused No.1 at the relevant time. When viewed in conjunction with the deficiencies in the prosecution case, this doubt assumes significance and reinforces the conclusion that the accused is entitled to the benefit of doubt.

13. In addition to the above, the evidence on record indicates several discrepancies in the prosecution's version of events regarding the complainant's hospitalisation. PW-1 states that she was admitted to National Hospital for five days following a beating on 21 April 2001, during which she received saline and underwent X-rays. However, her father, PW-2, claims that she was admitted for only three days, while PW-3 and PW-5 provide slightly varying accounts, describing the admission as lasting four to five days. The exact timing of her admission is also inconsistent. PW-1 states that her father admitted her the following day, PW-3 recalls being informed at night on 21 April 2001 and taking her on 22 April 2001, and PW-5 refers to receiving a phone call around 21:00 hours and attending the hospital



the next day. These variations create uncertainty about when PW-1 actually received medical treatment.

14. Furthermore, there is a notable absence of a discharge summary from National Hospital, which would normally provide an official record of admission dates, duration of stay, treatment provided, and the patient's condition at discharge. The lack of such a document undermines the ability to independently verify the hospitalisation and correlates with the fact that the Medical Officer, PW-4, did not inform the police about the medico-legal significance of the injuries, nor was his statement formally recorded by law enforcement. PW-4's testimony indicates he observed blunt abdominal trauma, a strained finger, and tender neck muscles; however, these findings could not be definitively linked to any specific cause, and the X-rays appeared normal.

15. Moreover, there is an inconsistency regarding who admitted PW-1; PW-1 claims her father did, while other witnesses assert that they accompanied her or took her to the hospital. PW-6, the investigating officer, relied solely on the medical certificate and witnesses' statements,



acknowledging that he did not personally verify her hospitalisation or obtain a discharge summary. This procedural gap, combined with the absence of a discharge document and the discrepancies in duration, timing, and witness accounts, raises serious questions about the substantiation of PW-1's hospitalisation, the exact nature of her injuries, and their connection to the accused. Additionally, the attendance records of accused No.1 suggest he was present at work on the alleged date of the assault, further complicating the timeline. Collectively, these factors highlight significant inconsistencies and gaps in the evidentiary record regarding PW-1's hospitalisation.

16. Furthermore, the timeline of lodging the FIR contains discrepancies that raise questions about the sequence of events. PW-1 deposed that she was beaten on 21 April 2001 and admitted to the hospital the next day, allegedly for a period of five days. According to her account, the FIR was to be lodged after her discharge, which would have been around 26 April 2001. However, the FIR was actually registered on 25 April 2001, a day before her alleged discharge. This creates a clear inconsistency between her hospitalisation period and the date of the FIR. The



discrepancy, coupled with the absence of a discharge summary or contemporaneous police verification of her hospital admission, casts a serious doubt on the prosecution's narrative.

17. Upon cumulative assessment, the prosecution evidence suffers from inherent inconsistencies, material omissions, lack of independent corroboration, and doubtful documentary support. The evidence does not unerringly point to the accused's guilt. The learned trial Court meticulously evaluated these aspects and has rightly concluded that the prosecution has failed to prove its case beyond a reasonable doubt. The view taken by the trial Court is a plausible and legally sustainable view based on the evidence on record.

18. In such circumstances, interference would be wholly unwarranted. This Court finds no compelling or substantial reason to interfere with the impugned judgment and order of acquittal recorded by the learned trial Court. The appeal, therefore, fails and is accordingly dismissed.

[R. N. Laddha, J.]