

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO.5 OF 2002

Shri George Francis Oliveira,
resident of Bondir, St.Cruz,
Goa ... APPLICANT

VERSUS

S T A T E ... RESPONDENT.

Mr. S.G. Bhobe, Advocate for the Applicant.

Ms. Winnie Coutinho, Addl. Public Prosecutor for
the State Respondent.

CORAM : D.G. DESHPANDE, J.

Dated : January 30, 2003.

ORAL JUDGMENT

Heard the Advocate for the
Applicant/Accused and the Addl. Public Prosecutor
for the State.

2. The accused was charge-sheeted by the
Police for offence under Section 509 of Indian
Penal Code. He was convicted by the Magistrate and
sentenced to pay a fine of Rs.1,000/-, or in
default, to undergo simple imprisonment for 30
days. He preferred appeal before the Sessions
Judge. The same came to be dismissed and hence

this Revision.

3. The complainant/victim in this case was one Manisha Parab, aged about 17 years. She lodged complaint to the Police to the effect that on 13-8-1993, while she was returning to her house at about 5.00 p.m., the accused came on scooter from behind, gave a slap on her back and said to her: "Yeta go" (Are you coming). This was witnessed by two persons, i.e. two constables, who were present there. They immediately chased the accused on their scooter. They caught him and brought him to the Police Station. Thereafter, on the complaint of the complainant, investigation was done and charge-sheet was filed and the accused came to be convicted as stated above.

4. So far as this Revision is concerned, Counsel for the accused contended that none of the witnesses examined by the prosecution were knowing the accused by his name and therefore, it was incumbent upon the Respondent to hold identification parade. According to him, the defence of the accused is that it is a case of mistaken identity and since the parade for identification is not held, the benefit of doubt was required to be given to the accused.

5. I do not find any merit in this submission. The evidence on record is more than sufficient to uphold the conviction. P.W.1 Manisha has stated that it was the accused who gave slap on her back and asked her "yeta go". Two constables, Raut and Arjun, (P.W.2 and P.W.3) were chitchating on the road at the relevant time. The incident was witnessed by mother of Manisha and also by P.W.3, who has stated that he saw the accused coming on the scooter, approaching the complainant and giving a slap on her back. The evidence of P.W.1 is, therefore, strongly corroborated by P.W.3 and the mother of Manisha and the defence could not bring anything fruitful on record in the cross-examination of P.W.1, P.W.3 and P.W.4. The accused was caught immediately because he was followed by two constables on the scooter. Therefore, not holding of identification parade does not result in giving any benefit of doubt to the accused/Applicant. Both the Courts below have rightly appreciated the facts and rightly convicted the accused. No interference is called for.

6. Revision is dismissed.

D.G. DESHPANDE, J.