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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**43 CRIMINAL APPLICATION NO. 25 OF 2023
IN/WITH
CRIMINAL REVISION APPLICATION (ST.) NO.39 OF 2023**

SYED ABBAS HUSAIN AHMED HUSAIN

VERSUS

1. THE STATE OF MAHARASHTRA
2. Shaikh Mehaboob Shaikh Majid Qureshi
3. Shaikh Latif @ Taj Shaikh Nabi
4. Sayyed Toafiq Sayyed Yousuf
5. Shyam Sonaji Kadam
6. Sanjay Kaduba Kakade
7. Syed Ali @ Don Syed Hasan
8. Shaikh Daud Shaikh Maheboob
9. Eshwar Ashokrao Khare
10. Shaikh Jalil Abdul Ajij
11. Sayyed Ismail Sayyed Lal
12. Shaikh Rashid @ Mamu Shaikh Babu
13. Shaikh Latif Shaikh Maheboob Qureshi
14. Shaikh Majju Shaikh Maheboob Qureshi
15. Sayyed Abdul Gani Sayyed Munawar

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Mr S. S. Bora, Advocate for Applicant

Mr M. A. Aher, APP for Respondent No.1/State

Mr M. V. Ghatge, Advocate for Respondent Nos.2 to 14

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 24th AUGUST, 2026

P. C. :

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1. This is an application for condonation of delay of 190 days caused in filing criminal revision application.

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2. Heard learned Advocates for the respective parties.

3. For the reasons stated in the application, the same is allowed. Delay is condoned. Criminal Application stands disposed of.

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4. With consent of learned Advocates for the respective parties, this revision application is taken up for final disposal.

5. The applicant is challenging the judgment and order dated 11/03/2022, passed by the learned Additional Sessions Judge-2, Parbhani in Criminal Appeal No.80/2014, thereby dismissing his appeal challenging the judgment and order of acquittal, dated 18/06/2014, passed by the learned Judicial Magistrate First Class, Purna in Regular Criminal Case No.130/2011, wherein respondent Nos.2 to 15 have been acquitted for the offence punishable under Sections 143, 147, 148, 427, 323, 504 and 506 read with Section 149 of the Indian Penal Code.

6. According to the learned Advocate for the applicant, the applicant is informant and lodged report on 28/07/2010. It is stated that the complainant and his family members i.e his parents are owners

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of 26 Acres 30 Gunthas land in Survey No.149. There are dispute about said land with Gangabai Deorao Kadam. Proceedings as regards said dispute was filed before the Deputy Collector, Parbhani and the same came to be decided against the informant. Therefore, the informant preferred appeal before the M.R.T. on 17/04/2010. According to applicant/informant, though the dispute was going on, said Gangabai had entered her name in the revenue record. On the basis of that entry, she alleged to have sold said land to respondents herein. Therefore, the applicant has filed suit for injunction on 23/07/2010 and the status-quo was granted by the Court. It is further alleged that, on 28/07/2010, at about 3.30 to 4.00 p.m., aforesaid purchasers (respondents herein) had come in their land Survey No.149 and started beating to servant of complainant. Accordingly, informant and his father went to the spot with their Car bearing No.MH-22/H-2934. It is alleged that the said purchasers/accused persons assaulted them and also pelted stones on their car with intention to kill them. Their car got damaged in the said incident. It is further stated that the informant, in order to save himself had made fire in the air by revolver and the accused persons ran away from the spot. Therefore, he lodged report against accused persons bearing Crime No.134/2010 for the offence punishable under aforesaid Sections.

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7. After the investigation is complete, charge sheet came to be filed against the accused persons/respondents herein. They came to be prosecuted before the learned Judicial Magistrate First Class, Purna. After recording the evidence, learned Judicial Magistrate First Class acquitted all the accused persons. The said order was challenged before the learned Additional Sessions Judge-2, Parbhani. Learned Sessions Judge dismissed the appeal vide the impugned order dated 11/03/2022 and confirmed the judgment and order of the learned Judicial Magistrate First Class. Therefore, the applicant has approached this Court by filing this revision application.

8. According to learned Advocate for the applicant, learned Subordinate Courts have committed a grave error in acquitting the accused persons. According to him, sufficient evidence was brought before the Subordinate Courts. The testimonies of PW-3, PW-4, PW-5 and PW-6 have not considered in a proper perspective by the Subordinate Courts. According to him, PW-3 is the eye witness, whose testimony at all not been considered properly, and therefore, the impugned judgment and orders passed by the learned Subordinate Courts are required to be quashed and set aside. He further submits that the offence registered against the accused persons have been made out, and as such, learned Subordinate Court were required to convict

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the accused persons. He, therefore prays for allowing the present revision application.

9. Per contra, learned Advocate for respondent Nos.2 to 15 vehemently opposed the application. He supports the judgment and order of the learned Subordinate and submits that the said judgments are correct and no interference is required of this Court.

10. With the assistance of the learned Advocates for the respective parties, I have gone through the order passed by both the Subordinate Courts. PW-1/Sunil Dubekar and PW-2/Ravi Jaiswal are the eye witnesses, however, they did not support the prosecution case. PW-3 is applicant herein, who deposed that incident took place on 28/07/2010 and he received phone call from his servant who was at Survey No.149. He alongwith his father and brother-in-law went there by his car. According to him, when they entered into land, all the accused persons surrounded around them and their vehicle, and started to pelt stones. Therefore, the glasses of their car came to be damaged. Thereafter, prosecution also examined Syed Ahmed Hussain (PW-6). PW-5/Shaiikh Azhar also deposed that when he was working in the land at Survey No.149, at that time, 10 to 12 persons came there and started beating him. He informed to PW-3/informant about incident.

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PW-3 came in a vehicle which was damaged by the accused persons. Learned Subordinate Courts observed that deposition of all the witnesses about the injury to Shaikh Azhar (PW-5) are vague. It was found that said PW-5 though claims to have assaulted by 10 to 12 persons, however, it was not specifically deposed as to which accused beaten him and how he sustained injuries. Likewise, he did not deposed as to which accused threatened to kill him. Therefore, according to learned Subordinate Court, offences of causing hurt, abusing and threatening to kill them could not be proved by the prosecution. The prosecution witnesses also did not corroborate with each other on account of how many accused persons were present at the spot. According to PW-3, PW-4 and PW-6, around 150 to 200 persons were present, whereas as per statement of PW-5, only 10 to 12 persons were present at the spot.

11. Even learned Trial Court recorded finding that, while recording spot panchnama, the prosecution could not point out any of broken glasses on the spot, and therefore, learned Trial Court recorded that prosecution could not prove that there was damage to the vehicle. After recording aforesaid finding, learned Trial Court acquitted the accused persons. Learned Sessions Court, while relying upon same finding, also dismissed the appeal.

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12. After careful reading of both the orders of the Subordinate Courts, I find that learned Subordinate Courts have not committed any error in passing the impugned orders. They considered the evidence in a proper perspective. The prosecution witnesses have not clearly established the fact pertaining to threatening to kill as well as damaging of the car of PW-3. There is no cogent evidence against the accused persons, and therefore, they came to be acquitted.

13. Moreover, there appears to be a dispute pending between the parties, and hence, possibility of false implication of the accused persons in this criminal case, cannot be ruled out. In that view of the matter, I am not inclined to entertain this revision application and the same, being devoid of merits, stands dismissed.

[SUSHIL M. GHODESWAR, J.]

sjk