



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 327 OF 2019

Kalinda w/o Dinkar Pujari
Age 45 years, Occupation Agriculture,
R/o. Kanadi Borgaon,
Taluka and District Latur. ... Appellant

Versus

1. The State of Maharashtra
2. Rangnath s/o Dattu Pujari
Age 56 years, Occupation Agriculture,
3. Shankar s/o Rangnath Pujari
Age 26 years, Occupation Agriculture,
4. Shalubai w/o Rangnath Pujari
Age 51 years, Occupation Agriculture,
5. Basling @ Basweshwar s/o Rangnath Pujari
Age 27 years, Occupation Education,

All r/o Kanadi Borgaon,
Taluka and District Latur. ... Respondents
[R Nos. 2 to 5 Ori. Accused]

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Ms. Ashwini Patil h/f S. J. Salunke, Advocate for the Appellant.
Mr. S. M. Ganachari, APP for Respondent No.1-State.
Mr. Vinod B. Jadhav, Advocate for Respondent Nos. 2 to 5.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 06.10.2026

Pronounced on : 08.10.2026

JUDGMENT :

1. This is appeal at the instance of original informant, by which there is challenge to the judgment and order of acquittal passed by learned Additional Sessions Judge-1, Latur dated 20.11.2017 in Criminal Appeal No. 21 of 2016 overturning the judgment and order of conviction dated 15.03.2016 passed by learned 5th J.M.F.C. in R.C.C. No. 34 of 2012.

2. On report of appellant-informant, crime bearing no. 51 of 2009 was registered at Murud Police Station, District Latur for offence under Sections 447, 294, 323, 504 and 506 r/w 34 of IPC on allegation that on 30.05.2009, there was abuse and beating by accused persons to informant, her husband and son for questioning accused for using their field. On above report, above crime was registered, duly investigated by PW6 and accused persons came to be chargesheeted and tried vide R.C.C. No. 34 of 2012 before learned J.M.F.C., Latur who, on appreciating the evidence adduced by prosecution, acquitted the accused from charge under Sections 394, 323, 504, 506 r/w 34 of IPC, but convicted them for offence under Section 447 r/w 34 and 324 r/w 34 of IPC by order dated 15.03.2016.

Feeling aggrieved by the above conviction, accused-present respondents approached the court of learned Additional Sessions Latur-1, Latur by filing Criminal Appeal No. 21 of 2016 and by judgment and order dated 20.11.2017 the same came to be allowed by setting aside the order passed by learned J.M.F.C.

Hence, the instant appeal.

3. Learned counsel for the appellant-informant would submit that, occurrence of abuse and assault dated 30.05.2009 was proved through informant and her son. They were both victims of abuse and assault. That, there was use of articles like stick and axe. That witnesses have categorically deposed about role played by each of the accused. That, in support of injuries, there was evidence of medical experts PW7 and PW8 and learned trial court correctly appreciated the same and also rendered judgment of conviction. However, according to learned counsel, without assigning sound reasons, the said judgment and order of conviction has been interfered and overturned by learned Additional Sessions Judge. Learned counsel pointed out that, apart from convincing evidence of informant, there was evidence of one Hasan Pathan (PW4). However, learned first

appellate court gave undue importance to the failure of prosecution to examine husband of informant and merely on such count, well reasons judgment of learned J.M.F.C. has been overturned. According to her, there are minor discrepancies and the same are bound to happen due to lapse of time and on this count, she seeks reliance on the judgment of Allahabad High Court in the case of ***Asgar and others v. State*** [Criminal Appeal No. 2040 of 1988 decided on 19.08.2026].

4. Per contra learned counsel for the respondents-accused would justify the judgment and order of first appellate court, it to be well reasoned and on correct appreciation of evidence.

5. Re-appreciated the entire evidence. In her report, informant at Exhibit 77 reported that, she was abused, assaulted by Basling by means of stick whereas Shankar hit her by means of axe and accused Rangnath hit her by means of handle of spade. When her sons intervened, they were also assaulted after which accused Rangnath abused her in filthy language.

However, at Exhibit 76, she deposed about accused to be their neighbours and there to be activity of measurement of boundary at the instance of accused and while doing so, they had come to such

side of field which was belonging to complainant and therefore it was objected. Complainant deposed that, there was abuse to her in filthy and obscene language. Then, according to her, accused Rangnath hit her on head with spade, dashed her down and sat over her, after which accused Basling hit her with stick on left hand, behind knee and waist whereas accused Shankar hit her with axe on left leg. Her sons intervene and they were also beaten. During assault by Basling, her blouse was torn. According to her, the assault was on account of boundary dispute.

Therefore, apparently, contents reported in the complaint are not reiterated by her in the witness box. There is variance in the nature of assault as well as roles of accused.

6. Next witness, who according to prosecution was also important, was her son Ashok (PW3) and he is examined at Exhibit 81. Even according to him, while accused were walking in complainant's field in stead of walking in their own side of the field, his mother objected after which accused Rangnath hit with mere handle of the spade whereas Shankar hit with handle of the axe, Basling inflicted blow with stick and Shalubai also assaulted complainant, i.e. pulled her hair and slapped her. (Such assault by Shalubai is not stated by the

complainant herself.) He does not speak about accused Rangnath sitting over complainant, as was stated by the complainant herself.

7. There is said to be eye witness account in the form of PW4 who claims to have seen the incident of assault during which accused Basweshwar hit complainant with stick on waist, left elbow and leg. Shankar hit her with axe handle on the left leg whereas Rangnath hit on the head with the spade handle and then abused her in filthy language. This witness also does not speak about accused Rangnath sitting over complainant.

8. Consequently, the above ocular account, as pointed out by learned counsel for the respondents-accused, is not consistent on the point of manner of assault. It is noticed, as stated above, that even complainant has a different narrative in the witness box than that was reported by her to police while setting law into motion.

9. Learned counsel for the appellant would strenuously submit that, it is fairly settled position, more particularly when witnesses are rustic villagers, that there are bound to be minor variations and minor omissions. However, here, as stated above, complainant's story before court is not matching with the very complaint lodged by her. Even

complainant does not get support from her own son who has attributed different roles to accused. Here, on undertaking such exercise, this Court has noted that witnesses are at variance on crucial aspect of roles of accused and manner of assault. Very husband of complainant, who was said to be in her company and was also assaulted, has not been examined. Consequently, when complainant's testimony itself is found to be exaggerated, it is unsafe to rely on the same.

10. Though medical experts are examined by prosecution, in cross there is admission about injuries to be possible by fall or even possibility of self infliction of injuries. It is settled position that, when there is previous enmity, as there is every possibility of false implication, evidence is required to be meticulously appreciated. Here, in view of variance on crucial aspect, prosecution story cannot be straightway accepted and relied.

11. Perused the impugned judgment. It is noticed that learned first appellate court has carefully re-appreciated the entire oral evidence of prosecution witnesses and has noted the variances in their testimonies and witnesses to be not consistent or lending support to each other. On the other hand, learned trial court seems to have failed to properly

comprehend the story of prosecution and has erred in accepting the story of prosecution without undertaking exercise of comparative analysis of the account narrated by witnesses and therefore, learned first appellate court rightly intervened for setting aside the said order.

12. Resultantly, there being no illegality of perversity in the impugned order and the view taken by first appellate court being possible view, no interference is called for. Hence, following order :

ORDER

The Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]

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