



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 287 OF 2016

Kailas s/o Suklal Deore
Age – 33 years, Occupation Driver,
R/o. Shirpur, Near Kanya Shala,
Shirpur, Taluka Shirpur,
District Dhule.

... Appellant

Versus

The State of Maharashtra

... Respondent

.....
Mr. N. L. Chaudhari, Advocate for the Appellant.
Mrs. Chaitali Chaudhari Kutti, APP for Respondent-State.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 07.09.2026

Pronounced on : 08.09.2026

JUDGMENT :

1. In this appeal, there is challenge to the judgment and order dated 19.03.2016 passed by learned Additional Sessions Judge, Dhule in Sessions Case No. 105 of 2010 convicting the appellant for offence under sections 323 and 325 of IPC.

PROSECUTION STORY

2. Prosecution story in trial court is that, on 11.03.2010, injured Leeabai was all alone in the house. There was knock on her door and

when she answered, she noticed appellant at her doors. Due to previous acquaintance, there were talks between them. Accused demanded Rs.500/- from injured. While she was taking out cash from the cupboard, it is alleged that, accused initially hit her by means of stone on the face and subsequently, when he attempted to stab her with screw driver, the said blow was warded off. Hearing her shouts, neighbours rushed and caught accused red handed. On the statement of injured, crime was registered for offence under Sections 323, 324, 325, 326, 307 and 452 of IPC. On completion of investigation, appellant was duly chargesheeted and tried and ultimately came to be convicted, but only for offence under Sections 323 and 325 of IPC, and for the rest of the charges, he came to be acquitted. Said judgment is subject matter of the instant appeal.

SUBMISSIONS

On behalf of the Appellant-Accused :

3. Learned counsel for the appellant would plead innocence and false implication. According to him, there is no cogent, reliable or direct eye witness account. That, moreover, there is no testimony of injured victim as she had died. Medical expert is also not examined to substantiate the injuries. That, Neighbours' evidence is hearsay and

therefore, according to him, such evidence ought not to have been accepted by learned trial court, and thereby he prays to set aside the said judgment.

On behalf of the Respondent-State :

4. In answer to above, learned APP would point out that, very FIR is by the injured lady. That, subsequently she died and therefore her testimony could not be adduced. However, according to him, there is overwhelming evidence of immediate neighbours who had caught accused red handed and there were blood stains on his hands. That, immediately injured disclosed the incident and named him. That, on her very statement crime was also recorded, but unfortunately, due to her demise at later point of time, prosecution could not adduce her evidence. He pointed out that, though medical expert is not examined, there are medical papers are on record. That, on the strength of oral evidence and above documentary evidence, learned trial court committed no error in returning guilt of the appellant. For want of merits, appeal is sought to be dismissed.

5. After hearing above submissions and on going through the record, it appears that on 11.03.2010, when injured Leeabai was all

alone in the house, in the afternoon accused paid visit to her house and demanded Rs.500/-. That, in that backdrop there was said to be assault on her by means of stone. She raised alarm inviting neighbours and she reported the incident to them, who took her to hospital, and there her statement was recorded. Said complaint is at Exhibit 52 and it is got Exhibited through PW7 Dnyaneshwar, who was working as a Medical Officer at Sanjiwan Hospital. Consequently, injured having died, obviously, she was not available to adduce evidence in the Court.

EVIDENCE BEFORE THE TRIAL COURT

6. Prosecution has adduced evidence of in all nine witnesses. Their roll and status and the sum and substance of their evidence is as under :

7. **PW1** Deelip, who deposed at Exhibit 33 about hearing shouts of woman in the house of Mali around 2.00 to 2.30 p.m. and two boys from the locality had caught a person. He claims to have seen blood stains on the hands of said person, whom he identified in the court to be appellant-accused.

8. **PW2** Prabhavati, a neighbour, deposed at Exhibit 34 that on 11.03.2010, at about 2.15 to 2.30 p.m. she heard shouts of Leelabai. Therefore she and one Lata Wani went to the house of Leelabai and saw one person came out of the house and his hands were blood stained. When he attempted to run away, Namdeo (PW3) and Sanjay (PW4) caught that person and Leelabai was taken to hospital. She identified accused in the court.

9. **PW3** Namdeo also deposed on similar lines that on 11.03.2010 while he was in his house, he heard shouts of some ladies “catch, catch”, and so he came out of the house and saw one person coming out from the house of Mali and so he and one Shimpi caught hold of that person, whose hands were blood stained. He deposed that, Smt. Mali told them about assault by said person by means of stone and screw driver for not giving him cash.

10. **PW4** Sanjay corroborated PW3 about hearing shouts in the afternoon of 11.03.2010 and so he going there and even chasing accused and accused was caught with his hands blood stained. He also deposed that injured told all of them that accused assaulted her and she had bleeding injuries on the face.

11. **PW5** Lata, yet another neighbour, deposed to the above extent about hearing shouts from the house of Leeabai and this witness coming out and seeing accused come out of house of Leeabai with blood stained hands and trying to run away and being caught. She claims that injured Leeabai told her that accused demanded Rs.500/- and while she was about to give Rs.500/-, accused assaulted her with stone and that accused was having screw driver. She deposed that she was knowing accused since prior to the incident as he used to come with Advocate Endait to the house of Mali.

12. **PW6** Bhagwan Mali, husband of injured, who is examined at Exhibit 40, testified that on 11.03.2010 he received information about assault on his wife and so when he went to the house, he saw his wife in injured condition and when asked, she told him about accused coming to the house demanding Rs.500/- and while she was about to remove money, accused lifted stone and hit her.

13. **PW7** is the medical expert who deposed at Exhibit 43 that on 11.03.2010 Leeabai was admitted in the hospital on account of injury due to assault. In his presence police recorded her statement which he endorsed. He identified it to be at Exhibit 44.

14. **PW8** and **PW9** are Investigating Officers, who carried out investigation at relevant time.

ANALYSIS AND CONCLUSION

15. On complete re-appreciation of above discussed evidence, i.e. substantive evidence, and on going through the cross of above witnesses, it is emerging that, there is no evidence of injured as she had died. However, she had given history of assault which was noted by police in the hospital and the very Doctor who certified her fitness to give statement has identified her statement as well as his endorsement over it. Therefore, there is testimony of injured Leeabai.

16. Above discussed evidence shows that, immediate neighbours as well as husband of injured are also examined. They are all consistent about hearing shouts from the house of injured and seeing accused come out of the house with blood stained hands and accused being caught red handed by these witnesses, who are immediate neighbours. Nothing adverse or damaging has been brought in their cross so as to disbelieve their version.

17. Though there are allegations by prosecution that there was assault by stone as well as screw driver, it seems that though said

screw driver was put to use, its blows was said to be warded off. Consequently, there was evidence i.e. oral account of witnesses, about assault by means of stone on the face.

18. It appears to be the case of prosecution that, accused was acquainted with injured and he was also allowed to enter the house. There seems to be some transaction of money i.e. Rs.500/-. Husband deposed about hearing his wife report him that when she was about to give money, she had said to accused that she would inform such handing over of money to the employer of accused, and this resulted in the assault. Stone is said to be put to use.

19. Prosecution has placed on record MLC Certificate Exhibit 26. As many as nine injuries are shown i.e. in the nature of “(1) CLW on right cheek, (2) CLW on right supra orbital region, (3) CLW on upper lip three in number in the mucosa, (4) CLW on lower lip mucosal inner aspect three in number, (5) CLW on upper lip, (6)CLW on left cheek, (7) incised wound on left parietal region, (8) CLW on right high parietal region, (9) CLW on high parietal region and (10) tenderness on right wrist joint CLW”.

Therefore, indeed offence of causing grievous hurt is proved by prosecution.

20. Perused the judgment under challenge, it is noticed that trial court has correctly appreciated the entire oral and documentary evidence on record. Findings are supported by sound reasons. The view taken by trial court is the possible view that could emerge even on re-appreciation. No case for interference being made out, following order is passed :

ORDER

The Criminal Appeal is hereby dismissed.

[ABHAY S. WAGHWASE, J.]

Later on :

21. On pronouncement of this judgment, learned counsel for the appellant seeks six weeks time to surrender so as to enable the appellant to approach the Hon'ble Supreme Court. Learned APP opposed the same.

22. However, considering the above request, six weeks time is granted to the appellant to surrender.

[ABHAY S. WAGHWASE, J.]

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