



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.614 OF 2006

The State of Maharashtra
Through PSO Kotwali Police Station,
Ahmednagar.

.. Appellant

Versus

Dattatraya Kondiram Sabale
Age: 50 years, Occu.: Pensioner,
R/o. Municipal Hudco, Ahmednagar.

.. Respondent

...
Mr. V. V. Jahagirdar, APP for Appellant/State.
Mr. A. K. Gawali, Advocate for respondent.
...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 11.09.2026

Pronounced on : 21.09.2026

JUDGMENT :-

1. State hereby challenges the judgment and order of acquittal dated 02.05.2006 passed by learned Chief Judicial Magistrate, Ahmednagar in Regular Criminal Case No.295 of 2001 acquitting respondent/original accused from charges under Sections 143, 147, 323, 427, 451, 504 read with Section 149 of Indian Penal Code [IPC].
2. Story of prosecution before the trial Court in brief is that son of accused No.1 was brought to the hospital of PW1 with complaint of chest pain and was duly admitted, but said patient died. Father of

deceased got upset and he and other relatives created ruckus and damaged the hospital by forming unlawful assembly. On report to that extent by doctor, crime was registered. It was investigated and seven persons were named and duly charge-sheeted and finally tried. Learned Trial Court appreciated the evidence of six witnesses and acquitted the accused from all the charges by judgment and order dated 02.05.2006. Hence, instant appeal by State.

3. Learned APP reiterated the prosecution case advanced before the learned Trial Court. He took this Court through the testimony of the complainant and eye-witness PW2 and submitted that their evidence has remained intact. He further submitted that these witnesses had seen the accused inside the hospital. There was also obstruction caused to the police authorities, and these witnesses have deposed against such act of the accused. According to him, all the essential ingredients for proving the offences are borne out from the prosecution evidence. However, the learned Trial Court acquitted the accused by misreading the evidence on record. Hence, he urges that the appeal be allowed by setting aside the impugned judgment and order.

4. Learned Counsel for the respondent would justify the judgment and order of trial Court and prayed to dismiss the appeal for want of

merits.

5. Re-appreciated the entire evidence. Complainant **PW1**, in his evidence at Exhibit-58, deposed about the incident dated 01.09.2001. He stated that at about 4.00 p.m., a patient was brought with severe chest pain. The patient was examined, and the father of the patient was explained about the serious condition of the patient. Thereafter, when the father agreed, accordingly, the patient was admitted. That, one cardiologist being summoned, but the patient to be expired around 5.50 p.m. and after the patient was declared dead, it is stated that father of the deceased levelled accusations of delay in treatment and relatives and crowd gathered there and therefore, the complainant informed the police authorities. That, while he was at S.P. office and waiting in L.C.B Branch, he learnt from his friends Dr. Dhoot and Dr. Somani about damage being caused to the hospital as well as vehicle. He claims that his staff Asif Pathan told him that Dattatray Sable and 7-8 persons had beaten him, manhandled a nurse, abused the receptionist and, therefore, report to that extent being lodged.

. This witness, in paragraph No.9 of his cross-examination, admitted that people, who were present at the hospital, had told him about the damage and he accordingly narrated it to the police. He

admitted that he was not beaten that day. According to him 300 to 400 people gathered at the hospital. He claims to have seen people pelting stones at the hospital. He admitted that he did not mention the name of accused in the complaint. He admitted that he made inquiry with the staff prior to filing of complaint. He admitted that he cannot give names of accused or their residence.

6. **PW2** is the receptionist and, in her evidence at Exhibit-72, stated that while treatment was being given to the patient, namely, Shankar Sable, he died at about 5.15 p.m. When the death was informed to the relatives of the patient, they started pelting stones at the hospital from outside. Out of fright, she went to the doctor's house, which is situated at the backside of the hospital. The relatives of the deceased patient caused damage to the hospital.

. In paragraph No.3 of her cross-examination, she admitted that a huge mob had gathered and that she did not know anybody from the said mob. As she had gone inside, she did not know what had happened outside the hospital. She had no document to show that she was employed at the hospital.

7. **PW3** is the spot panch.

8. **PW4** is the doctor, who treated persons, namely, Dinkar Yenare and Dnyandeo Gajare and issued injury certificates at Exhibit-87 and

Exhibit-88.

9. These two injured witnesses i.e. Dinkar and Dnyandeo are examined as **PW5** and **PW6**. They appear to be police personnel who arrived at the hospital upon receipt of a wireless message while they were on patrolling duty. There, they found the relatives of the deceased blocking the ambulance and demanding that the doctor be brought before them. According to them, five to six persons forcibly entered the hospital, and the mob started pelting stones. When they were calling for additional force, father of the deceased caught hold the mike and did not permit them to have a call. He identified accused No.1 as the father of deceased.

. In cross-examination, they admitted that there was mob at the hospital, which was pelting stones. They have admitted that no Test Identification parade was conducted, even when accused were not known.

10. Therefore, in the present case, firstly, the father of the deceased allegedly questioned the doctor after the demise of his son. However, the complainant doctor appears to have gone to the S.P. Office for lodging a complaint after seeing the relatives and the mob gathering outside his hospital. He is not witness to the events of damage and who did what. Likewise, receptionist PW2 also seems to be hiding

herself in the house of doctor and she was not aware of who did what. Admittedly, accused persons were not known to either of the witnesses, including police personnel, who suffered injuries in the episode of pelting stones by mob. Witness admitted in cross-examination that accused No.1 did not indulged in pelting stones. He had merely obstructed PW5 and PW6 from performing their duty. It is a fairly settled position that, in cases involving rioting by a mob, at least two witnesses should be consistent in their evidence, however, in the present case, it is not so. None of the witnesses knew the accused persons, except accused No.1, however, no overt act has been attributed to him. Admittedly, no Test Identification Parade was conducted and, therefore, the identity of the accused persons itself is under a shadow of doubt. Consequently, the charges cannot be said to have been proved beyond reasonable doubt. Resultantly, no fault can be attributed to the learned Trial Court for acquitting the accused persons. There being no merit in the appeal, it deserves to be dismissed. Hence, the following order is passed:-

ORDER

. Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]