



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 182 OF 2017

BABURAO BHIKAJI SABLE,  
AMOL SURESH MALKAR,  
LAKHANLAL RAMLAL KUKLARE,  
AND  
SANJAY POPAT HANDORE.

VERSUS

THE STATE OF MAHARASHTRA

...

Shri Ghulepatil Amol P., Advocate for the Applicants.  
Shri C.V. Bhadane, APP for the Respondent/ State.

...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 31 August 2026

P. C. :-

1. The applicants/ accused are challenging the impugned judgment and order dated 25.07.2017 passed by the learned Additional Sessions Judge-2, Aurangabad, in Criminal Appeal No.79/2013 whereby, the appeal preferred by the applicants/ accused challenging the judgment and order of conviction dated 08.03.2013 passed by the learned JMFC, Aurangabad, in RCC No.208/2013, came to be dismissed. Vide the conviction dated 08.03.2013, the applicants came to be convicted for the offences punishable under Sections 143, 332,

427 r/w 149 of the Indian Penal Code and they have been sentenced to suffer Rigorous Imprisonment of one month for the offence under Section 143 r/w 149; Rigorous Imprisonment of six months for the offence under Section 332 r/w 149; and Rigorous Imprisonment of one month for the offence under Section 427 r/w 149. All sentences are directed to run concurrently.

2. The applicants/ accused along with other accused came to be prosecuted in view of the report exhibit 40 dated 10.10.2011 lodged by the informant (Sayyad Imam) PW-1, who was working as Junior Operator in the Electricity Department at Waluj. On 09.10.2011 at about 10:50 hours, there was breakdown of electricity supply and therefore, the informant informed this fact to his superior i.e. Junior Engineer, who sent two Wireman for patrolling to ascertain where the fault took place. At about 11:30, mob of around 30 to 35 persons came to the office where the informant alone was working and the said mob was angry and asked the informant as to why electricity supply has been discontinued. It is alleged that the present applicants/ accused were also part of the said mob. The informant told them that due

to technical issue, supply is disconnected and the Wireman have been already deployed to check the fault. It is alleged that there was altercation between the mob and the informant. The informant alleged that the accused persons by forming unlawful assembly damaged the property of the Electricity Department and also mishandled the informant. The mob also alleged to have assaulted and abused the informant. Accordingly, the informant reported the incident to the Police Station. On the basis of the report, Crime No.I-230/2011 was registered for the offences punishable under Sections 353, 323, 143, 147, 427, 504 and 332 of the Indian Penal Code against the accused persons.

3. After completion of investigation, the charge-sheet was filed. The charge was framed and evidence came to be recorded. After recording statement of the accused under Section 313 of the Code of Criminal Procedure and after hearing the learned advocates for the respective parties, the learned JMFC has convicted the accused persons as stated above. Being aggrieved, the applicants filed the criminal appeal, which also came to be dismissed by the impugned judgment and order. Hence, the instant revision application. The accused (Shesherao

Deorao Kuber), who was also convicted along with the present applicants, had filed separate Criminal Appeal No.68/2013, which came to be allowed vide the judgment and order dated 13.08.2026 and he has been acquitted.

4. Learned advocate for the applicants submits that both the courts below have not considered evidence in proper perspective and proceeded to convict the applicants/ accused on the basis of sole testimony of the complainant, who is working as Junior Operator in the Electricity Department. Learned advocate for the applicants specifically points out that during the pendency of the instant revision application, co-accused, namely, Shesherao Kuber came to be acquitted in Criminal Appeal No.68/2013 vide judgment and order dated 13.08.2026 passed by the learned Sessions Judge, Aurangabad, on the same piece of evidence. Thus, according to the learned advocate, the present applicants/ accused are also deserve to be acquitted.

5. Learned advocate for the applicants/ accused took this Court through deposition of witnesses. The prosecution has examined four witnesses i.e. PW-1 complainant, PW-2 and PW-3 are Wireman, who had gone at the relevant time to ascertain the

fault and PW-4 is the Investigating Officer. According to the learned advocate for the applicants, from bare perusal of evidence of PW-1, it would reveal that the complainant himself has not supported the case of prosecution. There are various omissions and contradictions in the evidence of the complainant. There is no corroboration in the evidence of the witnesses. Except PW-1, other witnesses are not present in the office when the alleged incident took place and therefore, their testimony cannot be relied upon. According to the learned advocate for the applicants, the complainant PW-1 has virtually failed to identify the accused persons, particularly when there is admission that the mob of 30 to 35 persons came to the office. In the absence of specific identification of the accused persons and further in the absence of specific role having been performed by the accused persons, the conviction order passed by the Courts below cannot be said to be correct and proper. Thus, learned advocate for the applicants/ accused prays for quashing and setting aside the impugned conviction.

6. *Per contra*, the learned APP opposed the revision application. He submits that there is sufficient evidence brought

by the prosecution to prove guilt of the accused persons before the Trial Court. The orders passed by the Courts below are correct and proper and requires no interference. Hence, learned APP prayed for dismissal of the revision.

7. After hearing the learned advocates for the respective parties and going through the record, it is clear that the prosecution sought to prove the case on the basis of testimony of the sole eyewitness i.e. complainant PW-1. Bare perusal of the testimony of the complainant PW-1 would indicate that he has not specifically stated the role attributed to the accused persons. He has not stated about specific role performed by the accused persons. The prosecution has not conducted test identification parade. The prosecution, during the course of investigation, also not seized torn clothes of the complainant PW-1. Other witnesses have not supported the version of PW-1. Therefore, conviction cannot be based on such weak piece of evidence. The prosecution has admittedly not proved the case beyond reasonable doubt. Moreover, on the basis of same piece of evidence, the learned Sessions Judge in Criminal Appeal No.68/2013 has acquitted the co-accused Shesherao Kuber who

was facing the same charge out of the same incident. In that view of the matter, the impugned orders are liable to be quashed and set aside and the applicants/ accused deserve to be acquitted. Hence, I pass the following order:

**ORDER**

- (i) The Criminal Revision Application is allowed.
- (ii) The impugned judgment and order dated 25.07.2017 passed by the learned Additional Sessions Judge-2, Aurangabad, in Criminal Appeal No.79/2013 as well as the judgment and order of conviction order dated 08.03.2013 passed by the learned JMFC, Aurangabad, in RCC No.208/2013, are quashed and set aside.
- (iii) The applicants /accused are acquitted of the offences with which they were charged.
- (iv) The applicants are on bail. Their bail bonds stand cancelled and the surety, if any, stands discharged.
- (v) The fine amount, if any deposited, be refunded to the applicants/ accused.
- (vi) The record and proceedings be sent back to the concerned Court.