



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.536 OF 2016

1. Dnyaneshwar alias Nanabhau
s/o Bhika Randive,
Age: 37 years, Occu.: Agri.,
 2. Bhika s/o Gopal Randive,
Age: 72 years, Occu.: Agri.,
 3. Dadabhau s/o Bhika Randive,
Age: 45 years, Occu.: Agri.,
 4. Satyabhamabai w/o Bhika Randive,
Age: 67 years, Occu.: Household,
- Appellant Nos.1 to 4 R/o. Hol
(Sangvi), Tq. Pachora, Dist. Jalgaon,
At present R/o. Near Water Tank
Navegaon, At post Talegaon,
Tq. Chalisgaon, Dist. Jalgaon.

.. Appellant

Versus

. The State of Maharashtra

.. Respondent

...

Mr. Ravindra M. Deshmukh, Advocate for the appellant.
Mr. G. O. Wattamwar, APP for the respondent/State.

...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.09.2026

Pronounced on : 28.09.2026

JUDGMENT :-

1. Present appeal is an offshoot of the judgment and order of conviction dated 02.09.2016 passed by the learned Sessions Judge, Jalgaon in Sessions Case No.40 of 2009 convicting the appellant No.1

for offence under Section 326 of Indian Penal Code [IPC] and convicting all the appellants for offence under Sections 323, 504 read with Section 34 of IPC.

2. In brief, case of prosecution in Trial Court was that, on 16.08.2008 around 6.30 p.m. while complainant PW1 in the company of PW3 and PW5 was standing in front of house of one Ramdas Naik at village Hol, accused Nos.1 to 4 came there. PW5 questioned accused No.1 why he let his buffaloes enter his field and damage the crop. A verbal exchange of words took place, after which accused Nos.1 to 4 abused PW5. Accused No.4 used footwear to hit PW5 and after accused Nos.2 and 3 caught hold of PW5, accused No.1 dealt a blow on the head of PW5, as a result of which he fell unconscious and was taken to hospital. He was treated at various hospitals on account of head/brain injury. PW1, son of injured, filed report Exhibit-23, on the strength of which, crime was registered, investigated and accused were charge-sheeted and finally tried by the learned Sessions Judge, who accepted the case of prosecution and rendered conviction for offence under Sections 326, 323, 504 read with Section 34 of IPC. Hence, the instant appeal.

3. At the outset, learned Counsel for the appellants pointed out that appellant/accused No.2 Bhika Gopal Randive has expired during

pendency of appeal and his death certificate is placed on record. In view of the same, **the appeal stands disposed of as abated** as against appellant/accused No.2 Bhika Gopal Randive.

4. So far as appellant Nos.1, 3 and 4 are concerned, learned Counsel for the appellants apprised this Court about the story of prosecution in Trial Court. He also took this Court through the length and breadth of prosecution witnesses and would submit that prosecution has adduced only evidence of interested witnesses, who are relatives. No independent witness has been examined. He also questions prosecution story about proving the very scene of occurrence. He would submit that evidence of prosecution witness is also silent about accused to be armed with article wooden log. That, allegations against accused No.4 is of mere hitting by means of footwear. Accused Nos.2 and 3 did not indulge in any overt act, and the only allegations against them are of catching hold of Pundlik. He further submitted that the occurrence took place in 2008, the judgment was rendered in 2016 and, finally, the appeal is being heard in 2026, and that almost a decade has elapsed. He prays that the accused be let off with the sentence already undergone. He pointed that accused No.1 was arrested on 17.08.2008 and released on bail on 07.10.2008 and as such he was already spent 1 month and 20 days

behind bars.

5. Learned APP also took this Court through the prosecution evidence and would submit that there is not only the account of the injured but also the evidence of direct witnesses who were party to the assault. They are all consistent regarding the occurrence, the role of the accused and the manner of assault, and there is corroboration from the medical evidence. Therefore, according to him, the learned Trial Court has committed no error in recording the guilt of the accused. He pointed out that, considering the nature of the injuries suffered by the victim and the period of hospitalization, the appellants do not deserve leniency by way of reduction of sentence. According to him, the learned Trial Court has already shown leniency by acquitting the appellants of the graver offence under Section 307 of the IPC.

6. Re-appreciated the evidence. **PW1** is the son of injured **PW5**; **PW3** is the nephew of **PW5**; **PW5** is the injured himself; **PW7** and **PW8** are the acquaintances; **PW6**, **PW9**, and **PW11** are medical experts.

7. On analyzing the evidence of informant **PW1** at Exhibit-22, he has deposed that on 16.08.2008 around 6.30 p.m. while he was near the shop of one Bhaurao Patil, at that time, his uncle Pundlik was standing opposite to the house of Ramdas Naik. Therefore, accused

Nos.1 to 4 abused him. Accused No.4 hit Pundlik with footwear and thereafter, accused No.2 Bhika and accused No.3 Dadarao caught hold of Pundlik, whereas accused No.1 Nanabhau dealt blow with wooden log on the head of Pundlik, who fell down and became unconscious and was taken to hospital.

. Though he was cross-examined at length, nothing adverse or damaging to the prosecution has been brought on record.

8. **PW3** Sandip, also a nephew of Pundlik, has stated about accused No.4 beating Pundlik with *Chappal*, as a result of verbal exchange between accused No.1 and Pundlik in the backdrop of buffalo of accused No.1 grazing in the crop of Pundlik. He also stated that accused Nos.2 and 3 caught hold of Pundlik and accused No.1 gave blow with wooden log on the head of Pundlik. Even his evidence to the above extent has remained intact.

9. Very injured is examined as **PW5** at Exhibit-31 and he has also stated that in the afternoon of 16.08.2008, when he had been to the field, he saw accused No.1 grazing his cattle in his field. The cattle has eaten and damaged the crop and therefore, he went back to the village. Around 6.30 p.m., he asked accused No.1 why he grazed his cattle in his field, upon which accused got angry. Accused No.4 Satyabhamabai beat him with *Chappal*. Accused Nos.2 and 3

Bhikabhau and Dadabhau also came there and caught hold of him, after which accused No.1 Dnyaneshwar dealt a blow with a wooden log on his head, as a result of which he lost consciousness and was not aware of what happened thereafter. That, his brother had brought him to J. J. Hospital for treatment. He identified accused as well as the article shown to him in the Court.

. Though he was also cross-examined, some minor omissions were brought on record in paragraph No.3, but the occurrence of the assault has not been rendered doubtful.

10. **PW6** is the doctor, who examined PW5 at around 7.00 p.m. and he referred him to Jalgaon, as he could not treat him in his clinic.

11. **PW9** is the doctor who treated the injured and, in his evidence at Exhibit-44, has narrated his findings upon examination and after getting a CT scan done. He also deposed that the injuries noticed by him and reflected in Exhibit-45 were possible as a result of a blow with wooden log, Article 'A', and that the injury was sufficient to cause death in the ordinary course of nature had he not been treated immediately.

12. **PW11** is also another doctor, who attended injured in his hospital at 8.05 p.m., gave preliminary treatment and further referred him to Civil Hospital. He also deposed that taking into account the

wooden log and city scan report, injuries are possible by wooden log.

13. **PW4** is the panch witness to memorandum of disclosure and recovery Exhibit-29 and Exhibit-30 at the instance of accused Dnyaneshwar.

14. Therefore, above discussed evidence, categorically shows that on 16.08.2008, there was assault by accused No.1 on the head of PW5 by means of wooden log after accused No.2 and 3 facilitated the assault. Witnesses categorically define role of accused No.4 also.

15. Learned Trial Court has convicted accused No.1 alone for offence under Section 326 of IPC and in the considered opinion of this Court, he is rightly convicted for causing grievous hurt. Considering the nature of injuries coming on record from medical experts, this Court is not inclined to show leniency by reducing the sentence to already undergone. Hence, the conviction of accused Nos. 3 and 4 is required to be maintained. There being no merits in the appeal, it deserves to be dismissed. Hence, the following order :-

ORDER

. Criminal Appeal stands dismissed.

[ABHAY S. WAGHWASE, J.]