



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 558 OF 2016

Mahadeo s/o Prabhakar Deshmukh
Age: 28 years, Occu.: Agriculture,
R/o. Katpur, Taluka and District Latur.

.. Appellant
[Orig. Accused]

Versus

The State of Maharashtra

.. Respondent

...
Mr. Kalyan V. Patil, Advocate for the appellant.
Mr. V. V. Jahagirdar, APP for respondent-State.

...

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 09.09.2026

Pronounced on : 10.09.2026

JUDGMENT :

1. Appellant, a convict for offence under Sections 326 and 323 of IPC, hereby challenges the judgment and order dated 29.08.2016 passed by learned Additional Sessions Judge, Latur in Sessions Case No. 75 of 2015.

2. PW2 set law into motion by approaching Latur Rural Police Station on 23.04.2015 reporting that, appellant Mahadeo, who is son of her brother-in-law, assaulted his own wife and daughter by means of sickle. When informant's husband went to give understanding to the appellant, he was also assaulted. On such report given with PW7

PSO, crime was registered bearing no. 73 of 2015 for offence under Sections 324, 325, 326 of IPC. PW9 carried out investigation and chargesheeted accused and he was finally made to face trial in the court of Additional Sessions Judge, Latur, where prosecution adduced evidence of as many as 10 witnesses. Said evidence was appreciated and learned trial court, vide judgment dated 29.08.2016, convicted accused but only for offence under Sections 326 and 323 of IPC and sentenced him to suffer imprisonment for three and half years and to pay fine.

It is the above judgment that is challenged before this Court.

3. Learned counsel for the appellant would submit that, though prosecution adduced evidence of as many as 10 witnesses, including very informant as well as injured, all witnesses have not supported prosecution and were cross-examined by prosecution itself. There was only evidence of Doctor and Investigating Officer and only on the strength of the same, there is conviction. Moreover, according to him, the incident is between relatives. Now they are all residing peacefully and there is no animosity surviving as on today. That, further, during trial as applicant was behind bars for more than 18 months, he be let off for sentence already undergone.

4. Per contra, learned APP would submit that, learned trial court on complete appreciation of evidence has accepted the case of prosecution and as such, there is no illegality or perversity in the same.

5. In the backdrop of above submissions, record is put to scrutiny and it is noticed that, PW1 spot pancha; PW2 very complainant; PW3 injured eye witness and uncle of accused; PW4 injured and very wife of accused; PW5 injured daughter of accused; PW6 pancha to collection of blood stains, have all *en bloc* resiled from their testimonies and were cross-examined by learned APP, but nothing fruitful has been elicited in said exercise.

6. Therefore the only evidence that remains for consideration is that of PW7 PSO who received report and registered crime, PW8 and PW10 medical experts and PW9 Investigating Officer.

PW7 deposed about report being received by him and he registering crime on the basis of the same. **PW8** and **PW10**, who are medical experts, in their respective evidence, testified that on 23.04.2015 Subhash Deshmukh (PW3) was admitted in hospital and Doctor PW8 described four injuries noticed by him and further

deposed about certifying injury nos. 1 and 2 to be grievous. He flatly denied the injuries to be possible due to fall. He identified Exhibit 37. Likewise PW10 at Exhibit 49 deposed that, on 23.04.2015 while he was a Casualty Medical Officer, API Sayyad of Latur Rural Police Station brought patient namely Subhash Deshmukh and he examined said patient and noticed injuries narrated by him in his evidence. He also deposed about examining Mahadeo Deshmukh, Nikita Deshmukh and also described the nature and form of injuries on their person during his examination. Both these witnesses have identified injury certificates issued by them. Consequently, though injured themselves have not supported prosecution, there is evidence of Investigating Officer who took injured to the hospital and both medical experts have examined, treated and certified the injuries. Therefore, there is evidence about injured being assaulted.

7. On going through the record, it is noticed that informant PW2 deposed that one year back, her husband sustained injuries, and taking into account the evidence of Investigating Officer PW9 wherein he deposed that injured were referred to medical examination, learned trial court recorded a finding that there was dispute over agricultural land and hence, incident had occurred on the intervening night of 22.04.2015 and 23.04.2015. On the strength of evidence of

medical experts and Investigating Officer, learned trial court has finally recorded a finding that injuries suffered by witnesses are due to assault by appellant and thereby accepted the case of prosecution and held appellant guilty for offence under Sections 326 and 323 of IPC. Hence, trial court has, in the considered opinion of this Court, appreciated the evidence adduced by prosecution on the point of assault by appellant. Subsequently it appears that, injured witnesses being relative, they have deposed to favour the accused.

8. Now in appeal, apart from stating that informant as well as very injured had not supported, submission is also made that applicant was behind bars for almost 18 months and now differences having sorted out and parties, who are relatives, to be residing harmoniously together, appellant be let off by reducing his sentence to the period already undergone by him.

9. At this juncture, it would be profitable to refer to the judgment of Hon'ble Apex Court in the case of ***Bhagwan Narayan Gaikwad v. State of Maharashtra*** AIR OnLine 2021 SC 743, wherein, in para 28, following observations are made :

“28. Giving punishment to the wrong doer is the heart of the criminal justice delivery system, but we do not find any legislative or judicially laid down guidelines to assist the trial court in meeting out the just punishment to the accused facing trial before it after he is held guilty of the charges. Nonetheless, if one goes through the decisions of this Court, it would appear that this Court takes into account a combination of different factors while exercising discretion in sentencing, i.e. proportionality, deterrence, rehabilitation etc.”

10. Very recently also, in the case of ***Amit Singla v. Union Territory Chandigarh*** [Criminal Appeal No. 228 of 2026 decided on 13.01.2026], the Hon’ble Apex Court, by taking into account long passage of time without repeat offence, justified the same to be a valid ground to reduce the jail term to the period already undergone.

11. Similarly, again in the case of ***Israfil v. State of Madhya Pradesh*** [MANU/SC/0647/2026] the Hon’ble Apex Court has taken identical view that there was long gap and no repeat offence justifying reduction of sentence.

12. Here, alleged occurrence is of April 2015. Trial ended up in conviction in 2016 and as such, almost a decade has passed since judgment of conviction is looming large over the appellant. Sentence

awarded by trial court is imprisonment for three and half years for offence under Sections 326 of IPC and six months for offence under Section 323 of IPC.. Statement is made across the bar that applicant was behind bars for almost 18 months out of three and half years' sentence and that, now relations are restored to normalcy and parties being relatives of each other, are residing in peace and wish to continue to do the same. Apparently, from above discussed evidence, it is clear that including informant, very injured wife and their daughter have resiled and have not supported prosecution. Therefore is is clear indication that they no more desire conviction.

13. Consequently in the peculiar facts and circumstances of the case, by maintaining the conviction accused can be let off on already undergone sentence. Hence, following order :

ORDER

- I. Criminal Appeal is hereby **partly allowed**.
- II. The conviction of the appellant by learned Additional Sessions Judge, Latur vide judgment and order dated 29.08.2016 in Sessions Case No. 75 of 2015 for offences under Sections 323 and 326 of IPC is hereby maintained, **however, the sentence for offence under Section 326 of IPC is reduced** to the period of imprisonment already undergone by the appellant and the fine imposed by the trial court.

III. Bail bonds of the appellant stand cancelled.

IV. It is clarified that there is no change as regards the order regarding disposal of *muddemal*.

VI. The Criminal Appeal is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]

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