



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 287 OF 2019

GANESH RAVSAHEB @ VILAS RAJOLE,
PARESH RAVSAHEB @ VILAS RAJOLE AND
RAVSAHEB @ VILAS PANDURANG RAJOLE

VERSUS

THE STATE OF MAHARASHTRA AND
JANARDHAN SAHEBRAO NIMBALKAR

...

Shri Sudarshan Salunke, advocate h/f Shri Shaikh Majit S.,
Advocate for the Applicants.

Mrs. Bharati B. Gunjal, APP for the Respondent/ State.

Shri Vrishab M. Patil, advocate h/f Shri Jadhav Satej S.,
Advocate for Respondent No.2.

...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 28 September 2026

P. C. :-

1. Heard.
2. The applicants/ original accused Nos.1, 6 and 7 are challenging the impugned judgment and order dated 10.10.2019 passed by the learned Additional Sessions Judge, Kopergaon, in Criminal Appeal No.9/2014 whereby, the conviction and sentenced imposed by the learned JMFC, Kopergaon, vide the impugned judgment and order dated 14.02.2014 in RCC No.126/2005, came to be maintained and confirmed. Vide the impugned judgment and order dated 14.02.2014, the learned

JMFC was pleased to convict the applicants/ accused Nos.1, 6 and 7 for the offences punishable under Sections 323, 324 r/w 34 of the Indian Penal Code and sentence them to suffer rigorous imprisonment for three months and pay fine of Rs.500/- each and in default, to suffer rigorous imprisonment for 15 days, for the offence u/s 323 r/w 34. They are also sentenced to suffer rigorous imprisonment for six months and pay fine of Rs.5000/- each and in default, to suffer rigorous imprisonment for one month, for the offence u/s 324 r/w 34. Both the sentences are directed to run concurrently.

3. Shri Salunke, the learned advocate for the applicants, submits that the learned Trial Court as well as the learned Appellate Court have failed to consider evidence in proper perspective. He has taken this Court to the evidence of the witnesses and submitted that the witnesses have not corroborated with each other and the prosecution has not established the ingredients necessary for proving offences under Sections 323 and 324 beyond reasonable doubt against the applicants. According to the learned advocate, the Trial Court as well as the Appellate Court have not considered that there was no

independent witness examined by the prosecution and all witnesses are interested witnesses. The prosecution has failed to prove the seizure of weapons. This aspect is totally neglected by the Trial Court as well as the Appellate Court. The prosecution having failed to prove the seizure of weapon, goes to establish that the applicants are innocent. Therefore, according to the learned advocate, the Trial Court as well as the Appellate Court have rendered the judgments on perverse findings. As such, both the impugned judgments are liable to be quashed and set aside.

4. During the course of hearing, an affidavit is filed on behalf of the applicants in this Court. Relying on the said affidavit, Shri Salunke further submits that applicant No.1 has undergone 11 days of sentence, whereas applicant Nos.2 and 3 have undergone 7 days of sentence. Applicant No.2 Paresh is suffering from severe disorder due to electric shock and paralysis. Applicant No.3 is 74 years old and is also suffering from paralysis. Therefore, in the alternative, the learned advocate has prayed for extending benefits of the Probation of Offenders Act to the present applicants.

5. *Per contra*, the learned APP appearing for the State

and the learned advocate appearing for the original complainant strongly oppose the instant criminal revision application. According to them, both the Courts below have considered the evidence on record in proper perspective. The prosecution has examined in all 11 witnesses during the trial. PW-2 (Pratibha) and PW-3 (Manisha) are eyewitnesses, who are injured in the incident and they are wife and daughter of the complainant PW-1 (Janardhan). Their injuries are also proved by medical evidence. Testimonies of PW-2 and PW-3 have been corroborated by other witnesses as well as medical evidence. Apart from these eyewitnesses, other witnesses examined by the prosecution are independent witnesses and their testimonies are corroborated by each other. By relying upon testimonies of the witnesses and other evidence on record, the learned Trial Court has rightly passed the impugned judgment. The learned Appellate Court has also rightly confirmed the said judgment. Therefore, the impugned judgments are required to be maintained being proper and correct in the eyes of law.

6. After hearing the learned advocates appearing for the respective sides and perusing the impugned judgments, I find

that initially there were 07 accused, who were facing trial before the Trial Court. However, the Trial Court acquitted accused Nos.2 to 5 and convicted the present applicants/ accused Nos.1, 6 and 7 for the offences punishable under Sections 323 and 324 r/w 34 of the Indian Penal Code. The Trial Court acquitted all the accused for the offences punishable under Sections 143, 147, 148, 452, 504 and 506 of the Indian Penal Code and also for the offence punishable under Sections 37(1) r/w 135 of the Bombay Police Act.

7. On perusal of evidence of PW-1 complainant Janardhan, it is evident that he has deposed that accused Nos.1, 6 and 7 i.e. present applicants armed with weapons have entered in his house to assault him. Accused No.6 was armed with chain and assaulted the complainant's wife on her head. When PW-3 (daughter of the complainant) tried to rescue her mother, she is also assaulted by chain. Thus, both the wife and the daughter of the complainant sustained bleeding injuries. The accused also assaulted PW-4 and PW-5. PW-2 to PW-5 have supported the version of PW-1. Evidence of PW-7 doctor also goes to prove the injuries suffered by the injured witnesses and therefore, medical

certificates at exhibits 76 and 77 are proved. With the aforesaid evidence, it can be said that the prosecution has proved the charge against the applicants beyond all reasonable doubt. The concurrent findings of the Courts below do not suffer from perversity or error.

8. Having regard to the limited scope of revisional jurisdiction of this Court under Section 397 of the Code of Criminal Procedure, this Court would not ordinarily interfere with concurrent findings of fact unless the findings are shown to be perverse, manifestly erroneous, illegal or resulting in miscarriage of justice. On independent consideration of the evidence on record, this Court finds that the findings recorded by the Courts below are based on evidence available on record and cannot be said to be perverse or manifestly illegal. As no illegality and perversity is found in the impugned judgments, I am of the opinion that there is no merit in the instant Criminal Revision Application.

9. However, the incident is of the year 2005. The affidavit filed on behalf of the applicants indicates that the applicants are suffering from different ailments. They have no

previous criminal antecedents. The offence, though proved, arose out of a solitary incident and the applicants have already faced the trial of criminal proceedings for considerable period. The conviction is confined to Sections 323 and 324 read with Section 34 of the Indian Penal Code and the applicants have already undergone part of the sentence. The more serious charges levelled against them, including Sections 143, 147, 148, 452, 504 and 506 of the Indian Penal Code, have not been proved and the applicants have been acquitted of the same. Having regard to the nature of the offences, the age and antecedents of the applicants and the long passage of time, this Court is of the view that it would be appropriate to extend the benefit of Section 4 of the Probation of Offenders Act. Hence, the following order:-

ORDER

- (a) Criminal Revision Application is partly allowed.
- (b) The conviction of the applicants for the offences punishable under Sections 323 and 324 read with Section 34 of the Indian Penal Code, as recorded by the learned Trial Court and confirmed by the learned Appellate Court, is maintained.
- (c) However, the substantive sentence of imprisonment imposed upon the applicants is modified. Instead of requiring the applicants to undergo the substantive sentence of imprisonment,

the applicants are directed to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958, upon their entering into a bond with one surety each for a period of one year, to appear and receive sentence when called upon during the said period and, in the meantime, to keep peace and be of good behaviour.

(d) The applicants execute the aforesaid bonds before the learned Trial Court within four weeks from today.

(e) Record and proceedings be returned to the Trial Court.

kps

(SUSHIL M. GHODESWAR, J.)