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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CRIMINAL REVISION APPLICATION NO. 288 OF 2019

MADHAVRAO VISHWANATH WAGALGAVE DIED THROUGH HIS LRS.
SAMPAT MADHAVRAO WAGALGAVE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

Mr.A.V.Indrale Patil, Advocate for the Applicant.

Mr.M.A.Aher, APP for the Respondent/State.

Mr.S.P. Urgunde, Advocate for Respondent Nos. 2 and 3.

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 1st SEPTEMBER, 2026

PER COURT :

1. Heard the learned Advocates for the respective parties and the learned APP.

2. The Applicant is the son of informant, who is challenging the impugned judgment and order dated 03.09.2019 passed by the learned Sessions Judge, Latur in Criminal Appeal No.44/2015 wherein the learned Sessions Judge, Latur was pleased to allow the appeal preferred by accused Nos. 2 and 4 i.e. Respondent Nos. 2 and 3 herein. The accused persons have been prosecuted for the offence punishable

u/s 143, 147, 148, 341, 325, 324, 323, 504 and 506 r/w 149 of the IPC. There were in all 10 accused persons initially and they came to be prosecuted on the basis of report lodged by informant Madhavrao Wagalgave stating therein that on 25.05.2012 all the accused persons assaulted the said informant and his son Sampat in their field by using the weapons like axe and stick. The said incident took place when the informant and his son were working in the field. The quarrel said to have taken place on the basis of land dispute and the accused persons alleged to have inflicted the injuries on the informant and his son. After registration of crime, the investigation came to be conducted and charges came to be framed by the Trial Court against all the accused persons.

3. The prosecution in order to prove it's case, examined 6 witnesses. After considering the evidence on record and hearing the arguments of both the parties, the learned Trial Court convicted accused No.2 for the offence punishable u/s 324 of the IPC and accused No.4 for the offence punishable u/s 325 of the IPC. The Trial Court, vide it's order dated 01.04.2015, had acquitted accused Nos. 1, 3, 5, 6, 7, 8, 9 and 10 from all the offences. Accused Nos. 2 and 4 challenged

their conviction in Appeal No.44/2015, whereas the first informant Madhav had also preferred Cri.Appeal No.43/2015 before the learned Sessions Judge, challenging the acquittal of accused Nos.1, 3, 5, 6, 7, 8, 9 and 10.

4. The learned Sessions Judge in Criminal Appeal No.44/2015, pertaining to respondent Nos. 2 and 3, allowed the appeal thereby setting aside their conviction order whereas vide order dated 03.09.2019, in Criminal Appeal No.43/2015, the appeal preferred by the first informant, came to be dismissed. The informant died during the pendency of the appeal, and the instant criminal revision application is filed challenging the acquittal of respondent Nos. 2 and 3 through Sampat Nagalgave who is victim and son of informant.

5. The learned Advocate for the Applicant submits that the learned Sessions Court ought not to have interfered with the order passed by the learned J.M.F.C., which is a well reasoned order and it was passed after considering the evidence adduced by the prosecution in proper perspective. He further submits that the prosecution has duly established before the Trial Court that the evidence of the informant

and his son is trustworthy and therefore the prosecution has proved the guilt of accused No.2 for the offence punishable u/s 324 of the IPC and also the guilt of accused No.4 for the offence punishable u/s 325 of the IPC. He further submits that the learned Sessions Court, while passing the impugned order, did not consider the evidence of PW.No.4 the Medical Officer, which is itself sufficient to support the case of the prosecution. He, thus, submits that the learned Sessions Court having reversed the findings of the learned J.M.F.C. has committed grave illegality and as such the impugned order passed by the learned Sessions Court deserves to be quashed and set aside. He, therefore, prays for allowing the instant criminal revision application.

6. The learned APP has supported the informant and reiterated the same submissions. Heard the learned Advocate for Respondent Nos. 2 and 3.

7. After going through the judgments passed by the learned Trial Court as well as the Appellate Court, it is clear that the learned Trial Court convicted Accused Nos. 2 and 4 for the offence punishable under Sections 324 and 325 respectively. On the basis of same

evidence, other accused persons, who are 8 in number, came to be acquitted by the Trial Court. The learned Trial Court has recorded the findings that the evidence brought before the Court is not sufficient to hold that the accused persons formed an unlawful assembly with deadly weapons and committed riot with common object. The learned Trial Court on the basis of said evidence was pleased to consider that the prosecution has proved the guilt of accused No.2 for the offence punishable u/s 324 of the IPC and also proved the guilt of accused No.4 for the offence punishable u/s 325 of the IPC.

8. The learned Sessions Court, however, while considering the appeal of respondent Nos. 2 and 4, considered that the evidence of P.W.Nos. 1 and 2 is not sufficient to prove offence against the accused persons. The learned Sessions Court arrived at a conclusion that the prosecution witness Nos. 1 and 2 are not reliable witnesses. The prosecution witnesses gave their supplementary statement, which goes to show that the accused persons have been falsely implicated in the crime. On the basis of overall consideration, the learned Sessions Court proceeded further to acquit Respondent Nos. 2 and 4. After perusing the order passed by the learned Sessions Court, it is clear that

the quarrel between the parties occurred on account of land dispute, which is going on since last 30 years. In pursuance to the said dispute, the quarrel has taken place and in the said fight, accused Nos. 2 and 4 alleged to have assaulted the victims by using weapons like axe and stick. PW.No.3 has stated that the informant is his cousin and he is acquainted with accused Nos. 1 to 10. At that time, he was in his field and heard noise and went there. According to him, all the accused persons were present and there was assault. However, according to him, his statement was not recorded as per his say and therefore the evidence of this witness was held to be not truthful by the Sessions Court. In the same manner, the evidence of PW.No.5 also came to be discarded by the learned Sessions Court.

9. It is found that on the basis of same evidence, acquittal of the other accused persons came to be maintained by the learned Sessions Court in Cri.Appeal No.43/2015. It is further submitted that the learned Sessions Court found the testimony of the injured witnesses not trustworthy and therefore the learned Sessions Court proceeded to acquit accused Nos. 2 and 4. Criminal Appeal No.43/2015, which was filed by the informant against acquittal of accused Nos.1,3,5,6,7,8,9

and 10 was not challenged by the informant, but only acquittal of accused Nos. 2 and 4 in Criminal Appeal No.44/2015 is challenged by the present informant. It is well settled that when two views are possible, the view favouring the accused is required to be accepted. After perusing the judgment of the learned Sessions Court, I found no ground to entertain this Revision Application and accordingly I proceed to pass the following order :-

Criminal Revision Application is dismissed.

(SUSHIL M. GHODESWAR, J.)