

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

REVISION APPLICATION NO. 580 OF 2002

NAVNATH
SITARAM
WAGHMARE

1. Sanjay Namdeo Bukane
2. Prabhakar Ganpat Koli

...Applicants

Versus

The State Of Maharashtra

...Respondent

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NAVNATH SITARAM
WAGHMARE
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Mr. Chetan Gogawale i/b. Law Global Advocates for the Applicants.
Ms. M.R. Tidke, APP for the Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 17th SEPTEMBER, 2026

P.C. :

1. Heard learned counsel for the Applicants and Learned APP for the Respondent/State.

2. By this revision application, Original Accused Nos. 1 and 2 are challenging the judgment and order dated 19.12.2002 passed by IInd Additional Sessions Judge, Thane in Criminal Appeal No. 3 of 1997, dismissing the said appeal and confirming the conviction as well as sentence awarded under Judgment dated 18.12.1996 by IVth Assistant Sessions Judge, Thane in Sessions Case No. 620 of 1987.

3. The case of the prosecution in short is that in January 1987 Complainant Ramabai - mother of the injured had gone to the native place and during her absence, her son Anil Phumali went missing. On enquiry, she came to know that Anil had gone with Sanjivani and missing complaint was filed. 15 days prior to the date of incident, Sanjivani and Anil returned and told that they had mutually gone together. The mother came to know that the accused were treating

Sanjivani as their sister and were openly telling that they would teach a lesson to Anil.

4. On 19.05.1987, at about 4:30 p.m. when Complainant-Ramabai and Anil were repairing the house, Accused Nos. 1 and 2 came along with Jayant Rohekar and assaulted Anil and threatened him that they would teach him a lesson for defaming them by taking away their sister. A formal complaint was filed about the said incident and police made arrest.

5. On 01.06.1987 i.e. on the date of the incident, at about 10:45 a.m. when deceased Anil was standing on the road in front of a tailor shop, the Accused came there with weapons. Accused- Jayant gave blow by sword on the head of Anil, Revision Applicants - Sanjay Bukane and Prabhakar Koli assaulted Anil by iron rod and *Koyata* (Sickle) respectively and Vinayak Bandekar gave kick and fist blows. The accused were questioning Anil as to whether he would again elope with Sanjivani and would dare to file a police complaint. The injured raised cries for help and Accused ran away. The incident left Anil with bleeding injuries on his head, neck, right hand and muffled injuries on his back. He was shifted to the Hospital by his brother-Milind and their parents.

6. Mother gave oral statements to the police and the offence was registered under Sections 307, 323 read with 34 of the Indian Penal Code, 1860 ('IPC' for short). During the course of the investigation, blood stained clothes of the injured were seized. Statements were recorded. Accused were absconding, who were traced and arrested.

7. Accused pleaded not guilty and claimed to be tried. The defence of the accused is of denial. It was contended on behalf of the defence that the deceased Accused Jayant and Anil were in cross-terms

with each other and Revision Applicants being friends of deceased Jayant, have been falsely implicated.

8. The prosecution examined injured Anil as PW-1 and his brother-Milind as PW-2, their mother-Ramabai as PW-3, One Ramraj Malik was examined as PW-4 for proving discovery. Investigating Officers, Mr. R.V. Padwal and Mr. N.P. Patil were also examined.

9. Accused Jayant died during pendency of the Trial.

10. Learned Assistant Sessions Judge who heard and tried the case sentenced the remaining accused, including Revision Applicants for the offence punishable under Section 307 read with 34 of IPC and sentenced them suffer to rigorous imprisonment ('RI' for short) for 3 years and fine of Rs. 1,000/- and in default of fine payment, to suffer simple imprisonment ('SI' for short) for 3 months.

11. The Accused filed Criminal Appeal No. 3 of 1997 challenging the conviction and sentence of the Trial Court. It appears that Accused Vinayak also died during pendency of the proceedings. The Appeal Court by impugned order has dismissed the appeal. In these circumstance, the Revision Applicants are before this Court. Revision was admitted on 06.01.2003 and Revision-Applicants were enlarged on bail on same terms as earlier bail.

12. Learned counsel for the Applicants submitted as under.

12.1. That alleged use of the iron rod is not supported by the injuries found. That injuries are incised wounds and could not have been inflicted with a weapon like iron rod.

12.2. That Revision Applicants were friends of the main accused and therefore they are falsely implicated. That since the Applicants were

part of the earlier incident on 19.05.1987, the injured and his mother have implicated the Applicants out of the grudge to take revenge.

12.3. That the main accused treated said Sanjivani as sister and it was the vendetta of the main accused and the Applicants were not part of the act and they were not involved. That they had no motive to assault the injured.

12.4. That the incident had taken place on open street, but no independent witnesses are examined.

12.5. That this is an old incident of 1987 and considering long passage of time, as on today, Applicants are at advances age of about 60 years and therefore, case is required to be considered leniently.

13. On the other hand, learned APP has supported the impugned order and the conviction and sentence thereunder. She submitted that already only 3 years' rigorous imprisonment is awarded in a grave offence like Section 307 of IPC. She submitted that the injuries considered by both the Courts below are of serious nature and are inflicted upon vital body parts and as such the offence is clearly made out. She submitted that in revisional jurisdiction, this Court may not re-appreciate the evidence to take contrary view.

14. I have considered the rival submissions and perused the impugned Judgment and the Judgment of the Trial Court.

15. Following is the list of injuries as per injury certificate :

(1)	Incised wound on forehead, right side, oblique, 4 cm. x 1 cm. X bone deep, both angles acute with clear-cut edges, bleeding rescent, tender.
(2)	Tranmatic Amputation to right hand, 4th and 5th fingers at the level of proximal phalanx, bleeding present, tender, clear-

	cut edges.
(3)	Incised wound on right hand, middle finger dorsally, linear, 2.5 cm x 0.5 cms. X skin deep, both angles acute.
(4)	Linear incised wound on right lower back, oblique, 5 cm. x 0.5 cm. X skin deep, both angles acute with clear cut edges.
(5)	Incised wound on scalp, prietal region, oblique, 8 cms. x 0.5 cms X middle deep, both angles acute, with clear cut edges, bleeding present.
(6)	Incised wound on scalp, occipital region, oblique, 7 cms. 0.5 cms, x middle deep, both angles acute, with clear cut edges, bleeding present.

16. Therefore, it is clear that victim Anil has suffered wounds on scalp and forehead, there has been amputation of two finger, there is injury on right lower back. It is clear that vital body-parts have been injured.

17. Injured Mr. Anil had deposed that accused persons assaulted him on 19.05.1987 itself which led to filing of complaint by him in the concerned police station. He has testified that at the time of the incident, Accused Jayant was holding sword, Revision Applicant Sanjay was holding iron rod and Revision Applicant Prabhakar was holding *Koyata*/sickle in his hand. He has stated that Mr. Sanjay hit him with iron rod on his head causing bleeding injury and Prabhakar hit him on his neck using *Koyata*/sickle. The said deposition of injured has been corroborated by PW-3 Ramabai - mother of the injured, who was present at the spot of incident. It is recorded that mother has clearly denied suggestion about her absence from the incident.

18. It has come on record that that the defence has admitted documents of Spot Panchnama, Panchnama of seizure clothes of the

injured, Panchnama of arrest of the accused and seizure clothes which were on the person of the accused having blood stains and injury certificate.

19. Victim-injured himself has himself stated that revision Applicant Nos. 1 & 2 carrying iron rod and sickle had assaulted. It is duly corroborated by his mother. Hence, it cannot be accepted as an argument that there was no involvement of Revision Applicants at all.

20. Considering the nature of attack carried out with weapons like iron rod and sickle, it cannot be expected that by-standers or persons who might have otherwise seen the incident would have come forward to give evidence in support of the prosecution. Hence, the argument that no independent witnesses are examined also cannot be accepted. The injured victim and his mother has sufficiently corroborated the incident and further considering the nature of injuries inflicted (emerging from injury certificate) alleged offence is clearly made out.

21. Learned counsel for the Applicants has argued about the nature of the injury and how they are not possible. He submitted that iron rod can inflict blunt injuries and even the sickle will not inflict incised wounds considering its shape and sharpness. All these arguments are in the realm of re-appreciation of evidence to come to a contrary conclusion, which exercise is not permitted under the revisional jurisdiction of this Court, as clarified in **State Vs. Manimaran (2019) 13 SCC 670**, where the Hon'ble Supreme Court has held as under:

"16. As held in State of Kerala V. Puttumana Illath Jathavedan Namboodiri (1999) 2 SCC 452, ordinarily it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already

been appreciated by the Magistrate as well as by the Sessions Court in appeal. When the courts below recorded the concurrent findings of fact, in our view, the High Court was not right in interfering with the concurrent findings of fact arrived at by the courts below and the impugned order cannot be sustained."

(emphasis supplied)

22. In that view of the matter, it is not possible to re-appreciate the nature of injuries to come to contrary conclusion.

23. The argument about Applicants' age today and the appeal for leniency also can not be acceded to, considering the gravity of the offence and manner in which the incident has happened in broad daylight on the street.

24. Courts below have concurrently convicted the Revision Applicants and sentenced them on appreciation of evidence. No perversity is found in the view taken.

25. In the aforesaid facts and circumstances and for reasons indicated above, there is no reason to interfere.

26. **Revision Application is accordingly dismissed.** Rule is discharged. Applicants' bail bond is discharged.

27. At this stage, learned counsel for the Applicants seeks stay to this order for a period of 8 weeks. Considering that the Revision-Applicants were on bail during pendency of the revision, Applicants are granted 6 weeks time to surrender.

(M.M. SATHAYE, J.)