

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL APPEAL NO. 524 OF 1996

The State of Maharashtra

...Appellant

VERSUS

- 1] Nagorao Raghoji Kamble,
age 45 years,
- 2] Shantabai w/o Nagorao Kamble,
age 40 years,
- 3] Vilas Naorao Kamble,
age 18 years,

All r/o near railway station
quarter, Nanded

...Respondents

[Orig. Accused]

[Appeal against R.No.2 abated]

.....
Shri K.S.Patil, A.P.P. for appellant/State
Shri Pratap Mandlik, advocate h/f
Shri P.V.Mandlik, Sr.Advocate for respondents
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CORAM : A.B.CHAUDHARI & INDIRA K. JAIN, JJ.
DATED : 1st OCTOBER, 2015

ORAL JUDGMENT [Per A.B.Chaudhari, J.]

- 1] Being aggrieved by the judgment and order, dated 18.3.1996, passed by the IInd Additional Sessions Judge, Nanded, by which the order of acquittal of respondent nos. 1 to

3, for the offences punishable under Sections 307, 452, 504 r/w 34 of the Indian Penal Code was recorded by the learned trial Judge. The instant appeal was filed by the State against the order of acquittal.

2] Learned A.P.P. for the State submitted that the evidence of PW 3 Gangaram and his wife PW 2 Chandrabai has wrongly been disbelieved by the learned trial Judge. If their evidence is seen, it was essential to record conviction for the offences for which the accused persons were charged. It is submitted that a perverse finding has been recorded by the learned trial Judge, and therefore, the order of acquittal deserves to be reversed and the respondents ought to be convicted.

3] Per contra, learned counsel Shri Mandlik for the respondents/accused supported the impugned judgment and order of acquittal and submitted that the accused have been acquitted in the year 1996 and the parameters in relation to appeals against acquittal, if applied, the acquittal of his clients must be confirmed.

4] We have heard the learned counsel for the rival parties. We have perused the evidence of PW 2 Chandrabai and PW 3 Gangaram, wife and husband. We have perused

the certificate of injury. We find from the certificate of injury that all the injuries are simple and are not at all grievous as alleged by the prosecution. That apart, we find that the reasons recorded by the learned trial Judge cannot be said to be perverse, looking to the evidence of PW 2 Chandrabai and PW 3 Gangaram since obviously they are the interested witnesses. Independent witnesses have not supported the prosecution case, and hence, there is no perversity as such.

5] In the result, we find no merit in the appeal. Hence, Criminal Appeal No. 524 of 1996 is dismissed.

[INDIRA K. JAIN, J.]

[A.B.CHAUDHARI, J.]

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