

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

CRIMINAL APPLICATION NO.3052 OF 2014

Gulabbai w/o Ramrao Gaikwad,
Age-65 years, Occu:Agri.,
R/o-Gajanan Colony,
Garkheda Parisar, Aurangabad.

**...APPLICANT
(Ori. Complainant)**

VERSUS

- 1) Anil s/o Popatlal Munot,
Age-45 years, Occu-Business,
R/o- Navkar Samarth Nagar, Aurangabad.
- 2) Lalit s/o Mansukhlal Ambad,
Age-35 years, Occu-Business,
R/o- N-3 Cidco, Aurangabad.
- 3) The State of Maharashtra

...RESPONDENTS

...
Mr. Ajit D. Kasliwal, Advocate for Applicant.
Mr. A.S. Barlota, Advocate for Respondent Nos.
1 and 2.
Mr. D.V. Tele, A.P.P. for Respondent No. 3.
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CORAM: A.I.S. CHEEMA, J.

DATE : 9TH JANUARY, 2015

ORAL ORDER :

1. Heard learned counsel for the Applicant, learned counsel for Respondent Nos. 1 and 2, and learned A.P.P. for Respondent No. 3, finally with consent. Perused record.

2. Learned counsel for Applicant has taken me through copies of evidence which are available on record, as well as Judgment of the trial Court. According to learned counsel for Applicant, Applicant - original complainant in trial Court claimed that she has purchased land from block No. 57. He however conceded that it was only an agreement of sale. The Applicant - complainant claimed that she was in possession of the concerned land and that the accused with the help of 20 to 25 persons entered her land on 29th March 2011 and one incident had taken place. Present litigation, however, relates to another incident dated 1st April 2011, when according to the

Complainant, the accused along-with 15 to 20 persons entered the land and threatened her. She claims that she was beaten by stick, stone, kicks and fist blows and she sustained injury on abdomen, chest, head, and bleeding injury to left leg. The complaint was filed stating that Complainant had become unconscious in the incident.

3. The trial Court considered the evidence and after discussing the same, acquitted the accused. According to the learned counsel for the Applicant - original Complainant, the reasons adopted by the trial Court are not maintainable. The Complainant was supported by the evidence of CW-2 Shaikh Imam and the trial Court wrongly reasoned that Shaikh Imam could not be relied on regarding the incident because he was remembering the date of incident but could not remember the dates of birth of his children. The learned counsel also argues that the medical evidence was

disbelieved as there was delay in reaching the doctor and such reasonings could not be maintained.

4. Learned counsel for the Respondent Nos. 1 and 2 however, supported the reasonings recorded by the trial Court.

5. Going through the evidence available and the Judgment of the trial Court, what is clear is that the Complainant on the strength of an agreement of sale, started claiming right to the land concerned and the dispute appears to have occurred. Although the Complainant claimed that 15 to 20 persons entered her land with the accused persons and she was beaten by stick, stone, kicks and fist blows, the medical evidence brought on record through PW-3 Dr. Chate referred to only an abrasion on left leg, blunt trauma on abdomen and chest. Against this the witness relied on by the Complainant, namely, Shaikh Imam claimed that

the accused persons beat the Complainant with wooden stick and fists and kick blows and Complainant sustained injury on her head, chest, stomach and left leg and blood was oozing from her leg and that Complainant had become unconscious.

6. Looking to the civil dispute between the parties, the Applicant - Complainant would require better support of independent evidence. Looking to the reasons recorded by the trial Court, although it may not be possible to support its reasonings that only because there was delay of three - four hours to go to the doctor, the medical evidence should be discarded; still looking to the other reasonings recorded by the trial Court, it does not appear to be necessary to interfere in the acquittal order which has already been passed. For reasons discussed above, there does not appear to be an arguable case to interfere with the finding of acquittal recorded. There is no substance in the Application.

7. For the reasons stated above, Criminal Application stands rejected.

[A.I.S.CHEEMA,J.]

asb/JAN15