

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

CRIMINAL REVISION APPLICATION NO. 314 OF 2001

- 1] Dagdu s/o Yeduji Thorat,
age 53 years, occ. Service,
r/o village Mandki,
Tq. And Dist. Aurangabad,
 - 2] Rajendra s/o Dagduji Thorat,
age 26 years, occ. Service,
r/o as above,
 - 3] Ravindra s/o Dagduji Thorat,
age 21 years, occ. Service,
r/o as above
- ...Applicants

VERSUS

The State of Maharashtra

...Respondent

.....
Shri Upesh Jaiswal, advocate h/f
Shri N.S.Ghanekar, advocate for applicants
Shri V.D.Godbharle, A.P.P. for respondent
.....

CORAM : V.M.DESHPANDE, J.

DATED : 5th January, 2015

ORAL JUDGMENT : -

1] Heard Shri Upesh Jaiswal, advocate h/f Shri N.S.Ghanekar, learned counsel appearing for the applicants and Shri V.D.Godbharle, learned Additional Public Prosecutor for the respondent/State.

2] The applicants, who are original accused nos. 1, 4 and 5, are before this court to question the correctness and legality of the judgment and order, passed by the learned 1st Ad hoc Additional Sessions Judge, Aurangabad in Criminal Appeal No. 66 of 1999, whereby the learned lower appellate court convicted the present applicants for the offence punishable under Section 323 r/w 34 of the Indian Penal Code and directed that they should suffer R.I. for one month and to pay fine of Rs.200/- and in default to suffer R.I. for one week.

3] Originally, along with the applicants, four persons were also prosecuted. The applicants along with other co-accused were prosecuted for the offence punishable under Sections 147, 148, 324 r/w Section 149 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

4] The learned Trial Magistrate convicted the applicants for the offence punishable under Section 324 r/w Section 149, 147 and 148 of the Indian Penal Code. The applicants were sentenced to suffer R.I. for three months. The original accused nos. 6 and 7 were sentenced till rising of the court.

5] After appreciation of the prosecution case, the

learned appellate court altered the conviction from Section 324 r/w Section 149 to Section 323 r/w 34 of the Indian Penal Code.

6] From the prosecution case it is clear that both the applicants as well as the injured are from the same family. The dispute, it appears, arose on account of Grampanchayat election.

7] PW 13 is Dr. Sureshchandra, who has proved the injury certificate of PW 1 Kachru, it is at Exh.63; injury certificate of PW 3 Chandrabhagabai is at Exh.60; and injury certificate of PW 2 Mani is at Exh.64. Looking to the injuries appearing in the injury certificates, it is crystal clear that the injuries are simple in nature.

8] The overwhelming evidence clearly shows that the present applicants are the culprits for inflicting the injuries to the PW 1 Kachru, PW 2 Mani and PW 3 Chandrabhagabai.

9] In so far as quantum of sentence is concerned, it is clear that both the injured as well as the accused persons are from the same family and the dispute arose on account of the Grampanchayat elections held on earlier occasion.

10] In that view of the matter, this court is of the view that

lenient view should be taken against the applicants. Hence, instead of jail sentence, the applicants are directed to pay fine amount of Rs.1,000/- each, in default the applicants shall suffer imprisonment for eight days.

11] Present Criminal Revision Application is partly allowed, though the order of conviction is maintained. The jail sentence is set aside and in stead they are directed to pay Rs.1,000/- each within a period of eight weeks from the date of this judgment. The earlier deposit of fine amount, if any, by the applicants shall be adjusted towards the payment of fine amount. Rule made absolute in the above terms.

[V.M.DESHPANDE, J.]

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