

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Revision Application No.183 Of 2002.

Gurucharan Singh s/o Premsingh Sandhu

Age : 40 Years., Occ.: Agriculturist.

R/o.: Nanakpur, Nanded.

Dist. Nanded.

:: Applicant.

Versus

(1) The State of Maharashtra.

(2) Papindersingh s/o Shibhasingh Pujari.

Age : 37 Years., Occ.: Service.

(3) Mahansingh s/o Karamsingh Sandhu

Age : 64 Years., Occ.: Agriculturist.

(4) Sukhasingh s/o. Karamsingh Sandhu

Age : 44 Years., Occ.: Agriculturist.

(5) Satnamsingh s/o. Dhumsingh Sandhu

Age : 24 Years., Occ.: Education.

All R/o.: R/o.: Nanakpur, Nanded.

Dist. Nanded.

:: Non-Applicants.

**Criminal Revision Application dismissed as against Non-Applicant
Nos. 3,4 and 5 as per order dated 11th November, 2003.**

Appearance =>

Mr. A.I. Deshmukh, Advocate for the Applicant.

Mr. S.A. Ambad, Additional Public Prosecutor for Non-Applicant
No.1

Mr. K.M. Chandaliya, Advocate h/for Mr. M.V. Deshpande, Advocate
for Non-Applicant No.2.

CORAM : V.M. DESHPANDE, J.

DATE : 3rd FEBRUARY, 2015.

ORAL JUDGMENT :-

Heard Mr. A.I. Deshmukh, Advocate for the Applicant, Mr. S.A. Ambad, learned Additional Public Prosecutor for Respondent No.1 and Mr. K.M. Chandaliya, Advocate h/for Mr. M.V. Deshpande, Advocate for Non-Applicant No.2.

[2] Present Criminal Revision Application is directed against the Judgment and Order dated 26th April, 2002 passed by the learned Judicial Magistrate, F.C., Court No.II, Nanded in Regular Criminal Case No.730 Of 1998 whereby, the learned Magistrate was pleased to acquit present Non-Applicant No.2 alongwith other co-accused for the offences punishable under Section.s 448, 324 read with 34 of the Indian Penal Code. Present Criminal Revision Application is filed by Gurucharan Singh s/o Premsingh Sandhu – first informant. State has not preferred any appeal against the impugned Judgment and Order.

[3] Though the present Criminal Revision Application is filed against all original accused, this court [Coram : P.B. Gaikwad, J.] at the time of admission was pleased to dismissed present Criminal Revision Application against Non-Applicant Nos. 3 to 5.

[4] The First Information Report was lodged by applicant on 10th May, 1998. First Information Report disclosed that on 9th May, 1998 in between 10.00 to 11.00 p.m. when he was sleeping in the court-yard, Non-Applicant No.2 under the influence of liquor used abusive words, therefore,

the first informant asked him, as to why he is abusing. That time, other accused persons came there and Non-Applicant No.2 gave stick block to him. That time, Harjit wife of the applicant and his nephew Rajendrasingh came there. At that time, Rajendrasingh was also assaulted.

[5] In order to bring home the guilt of the accused persons, the prosecution has examined in all six witnesses. The learned trial court on appreciation of the evidence, in my view, has correctly recorded the findings that, since spot panchnama Exh.No.48 reveals that incident taken place in front of the house of the first informant, on the platform and other circumstances which are appearing in the prosecution case, creates doubt about the place of incident from which, it cannot be gathered that the accused persons have committed house trespass.

[6] The learned trial court further noticed that the possibility of false implication of accused persons at the behest of first informant, cannot be ruled out, in view of the fact that original accused No.3 was one of the witness against present applicant, in a criminal case.

[7] Even according to the prosecution case, at the relevant time, dispute was going on between the wife of the applicant and persons belongs to 'wadar' community, who were residing just nearby. It is to be noted here that present applicant was prosecuted for abducting the girl of 'wadar' community and he was facing prosecution in that behalf. Suggestions were also made to the prosecution witnesses that the first informant has received injury during the scuffle between him and persons belongs to 'wadar' community. Un-disputely, there was long standing civil dispute between the present Non-Applicant No.2 and applicant. Further at the relevant time, dispute with persons belongs to 'wadar' community, was not at all denied by

the prosecution witnesses. The learned trial court has considered all these aspects in its true perspective.

[8] The scope of the Criminal Revision Application challenging the order of acquittal is limited. Unless and until it is shown that order of acquittal is perverse and view taken by the court below acquitting the accused is impermissible and impossible on the available evidence, the revisional court will not interfere in the matter.

[9] The impugned Judgment and Order of acquittal shows that, the learned Magistrate before acquitting the accused has considered the prosecution case in its true perspective. Further the evidence of prosecution witnesses was also properly scanned by the learned Magistrate. In that view of the matter, no exception can be taken to the Judgment and Order of acquittal dated 26th April, 2002 passed by the learned Judicial Magistrate, F.C., Court No.II, Nanded in Regular Criminal Case No.730 Of 1998. Hence, Criminal Revision Application fails and same is dismissed accordingly. Rule discharged.

(V.M. DESHPANDE, J.)