

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

**CRIMINAL APPEAL NO. 712 OF 2002**

Kusumbai S/o Asaram Kadbane  
Age : 66 years, Occu.: Agril and  
Household, R/o Limba Rui,  
Tal and Dist. Beed

.. Appellant  
(Orig. Complainant)

**Versus**

- 1) Rajbhau S/o Piraji Salunke,  
Age : 61 years, Occu.: Agril  
R/o Limba Rui, Tal and Dist.: Beed
- 2) Sakharam S/o Piraji Salunke,  
Age : 51 years, Occu.: Agril.,  
R/o Limba Rui, Tal and Dist.: Beed
- 3) Sada S/o Rajabhau Salunke,  
Age : 36 years, Occu. : Agril.,  
R/o Limba Rui, Tal and Dist. : Beed
- 4) Bharat S/o Rajabhau Salunke,  
Age : 31 years, Occu.: Agril.,  
R/o Limba Rui, Tal and Dist. : Beed
- 5) Bankat S/o Rajabhau Salunke,  
Age : 23 years, Occu.: Agril.,  
R/o Limba Rui, Tal and Dist. : Beed

**.. Orig. Accused**

- 6) The State of Maharashtra .. Respondents

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Mr. C.R. Deshpande, Advocate for the appellant  
Mr. G.K. Thigale, Advocate for respondent nos.1 to 5  
Mr. V.S. Badakh, A.P.P. for the respondent/State

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**CORAM : M.T. JOSHI, J.**  
**DATE : 26/10/2015**

**ORAL ORDER :**

Heard both sides.

2. Aggrieved by the acquittal of the respondent nos. 1 to 5 from the offences punishable under section 323, 504, 506 r/w. 34 of the Indian Penal Code, the original complainant has filed the present appeal.

3. Her case in short was that she was the exclusive owner and possessor of land gat no. 179 located at Limba Rui, Tq. and Dist. Beed and one Yeshwanta Patil had no concern with the same, however, without knowledge of the complainant, said Yeshwanta had nominally sold the 34 guntha of land from the said land to the present respondent nos.1 and 2 who were bent upon to take forcible possession of the land from her.

. In the circumstances, on 29/03/2001 at about 9.00 am, these respondent alongwith respondent nos.3,4, 5 and 20 more persons/villagers including two Police Constables entered the land. They bet her as well as her minor daughter. They also threatened the complainant that they would burn her agricultural

implements etc. Thereafter, they tied her with a rope to a tree. Later-on, her minor daughter released her.

. Since the complaint was not accepted by the Police, she approached this Court by way of Criminal Writ Petition no. 188 of 2001 and the directions were given to her by this Court to lodge a complaint and accordingly a private complaint was filed in the Court of learned Chief Judicial Magistrate, Beed.

4. The learned Chief Judicial Magistrate however acquitted all the respondents.

5. The learned Chief Judicial Magistrate has taken into consideration that against the contention of the complainant that she was the exclusive owner and possessor of land gat no. 179, the revenue record would show that said Yeshwanta had 3/4th share in the same. Admittedly, said Yeshwanta has sold 34 guntha of land from said gat number and, therefore, the learned Chief Judicial Magistrate observed that that the contentions of the complainant in this regard are not proved. On merit also, it was found that though, even the complainant has stated that 20 villagers and two unknown

Police Constables alongwith the present respondent nos.1 to 5 had committed the act and though the complainant was vigilant enough in approaching the High Court before filing of the complaint, the complaint, in-fact, is filed only as against five persons. Further contradictions in the deposition of the complainant and her daughter were highlighted and the present respondents were acquitted.

6. Upon hearing both sides, in my view, the learned Chief Judicial Magistrate has taken a reasonable and probable view of the material before him. The revenue record clearly showed that case of the complainant that she is the exclusive owner of land gat no.179 has failed. Further, the contradiction as to whether the respondent asked her to remove her pipeline has also cropped up during the oral evidence. The conduct of the complainant, as highlighted by the learned Chief Judicial Magistrate is also material one.

7. In the circumstances, in the present appeal against acquittal, no interference in the reasoning forwarded by the learned Chief Judicial Magistrate is

warranted. The Appeal is therefore dismissed. Bail bonds, if any, of the respondents shall stand cancelled.

**[M.T. JOSHI]**  
**JUDGE**

arp/