

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.160 OF 2015

Dinesh Chabilal Gupta

...Applicant

Versus

The State of Maharashtra

...Respondent.

Mr. Sayaji D. Nangre a/w Mr. Ranjeet M. Pawar
and Ms Nidhi Dotiya for the Applicant.

Mr. V.B.K. Deshmukh, APP for the Respondent-
State.

CORAM:-M.L. TAHALIYANI, J.

DATED :29th APRIL, 2015.

P.C.

Admitted. Heard finally.

2. The Applicant has been convicted for the offence punishable under section 324 of the IPC and is sentenced to suffer RI for a period of three years and to pay a fine of Rs.5,000/-. His appeal has been dismissed by the Appellate Court. The only witness in the case before the Trial Magistrate was PW 1, who was injured in that incident.

3. I have gone through his evidence. From his evidence it is absolutely clear that no weapon which can fall under section 324 of the IPC was used by the Applicant. The Applicant had allegedly assaulted PW1 by means of fist and blows of bamboo. Bamboo cannot be called as a deadly weapon nor it can be called as a sharp weapon for cutting. In fact, the Applicant could have been convicted for the offence punishable under section 323 of the IPC since it is alleged that there is no medical report that the PW1 has sustained any fracture. I have gone through the evidence of PW4- Medical Officer who examined P.W.1. There is no evidence that PW1 has sustained any fracture. As such, it is a clear case of offence punishable under section 323 of the IPC and not under section 324 of the IPC.

4. In view thereof, the revision application is partly allowed. The conviction of the Applicant for the offence punishable under section 324 of the IPC is set aside. The Applicant is found guilty of offence punishable under section 323 of the IPC.

5. He shall be released on execution of personal bond in the sum of Rs.10,000/- for a period of one year with the condition that during the said period of one year he shall maintain peace and good

behaviour and that he shall appear before the Trial Court or any other competent Court to receive the sentence, if called upon to do so.

6. The criminal revision application accordingly stands disposed of.

(JUDGE)