

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.58 OF 2016

Anil s/o Govindrao Shinde,
Age-56 years, Occu:Agriculture,
R/o-Pangra (Shinde), Tq-Basmath,
Dist-Hingoli.

...APPELLANT
(Orig. Complainant)

VERSUS

- 1) The State of Maharashtra,
- 2) Balaji s/o Ramrao Shinde,
Age-35 years, Occu:Cultivation,
R/o-Pangra (Shinde),
Tq-Basmath, Dist-Hingoli,
- 3) Bapurao s/o Ramrao Shinde,
Age-32 years, Occu:Cultivation,
R/o-Pangra (Shinde),
Tq-Basmath, Dist-Hingoli,
- 4) Mangalabai w/o Hemraj Sawandkar,
Age-45 years, Occu:Household & Service,
R/o-Pangra (Shinde),
Tq-Basmath, Dist-Hingoli,

...RESPONDENTS

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Mr.S.Y. Patil Advocate with Mr. P.V.
Balkhande Advocate for Appellant.
Mr.R.V. Dasalkar, A.P.P. for Respondent
No.1.

...

WITH

CRIMINAL APPEAL NO.451 OF 2016

The State of Maharashtra,
Through: Police Inspector,
Police Station, Kurunda,
Tq-Basmathnagar, Dist-Hingoli.

...APPELLANT

VERSUS

- 1) Balaji Ramrao Shinde,
Age-19 years, Occu:Agri.,
R/o-Pangra Shinde,
Tq-Basmath, Dist-Hingoli,
- 2) Bhaurao Ramrao Shinde,
Age-32 years, Occu:Agri.,,
R/o- As Above,
- 3) Mangalbai w/o Hemraj Sawandkar,
Age-45 years, Occu:Household,
R/o-As Above.

...RESPONDENTS

...
Mr. R.V. Dasalkar, A.P.P. for Appellant.
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CORAM: A.I.S. CHEEMA, J.

DATE : 11TH AUGUST, 2016

ORAL ORDER :

1. Criminal Appeal No.58 of 2016 has been
tendered by the original complainant and Criminal

Appeal No.451 of 2016 has been filed by the State. Both the Appeals are against orders of acquittal passed by the Additional Sessions Judge, Basmath, in Criminal Appeal No.13 of 2013.

2. It appears that the trial Court in Regular Criminal Case No.330 of 2007 convicted the accused persons under Section 324 read with 34 of the Indian Penal Code, 1860 ("I.P.C." in brief). The Sessions Court, however, acquitted the accused.

3. It has been argued by the learned counsel for the original complainant and learned A.P.P. for State that the learned J.M.F.C. had properly appreciated the evidence in the matter and convicted the accused. It is stated that there was evidence of PW-1, 2, 4 and 5 regarding the incident. It is stated that there were three eye witnesses of the incident of which PW-1 was injured witness and their evidence should have

been relied upon and conviction should not have been disturbed.

4. These Appeals are against acquittal and to admit appeal against acquittal, it is necessary for me to see if the Judgment of acquittal is perverse or it is not as per the record or that the reasons are totally unacceptable.

5. The Record and Proceedings are available and going through the Judgment of the Sessions Court, what can be seen is that regarding the incident of assault, there was evidence of PW-1 Anil Shinde who claimed to have intervened in the quarrel of children, at which time it is alleged that the accused persons assaulted PW-1. He gave evidence that accused No.2 Bhaurao and accused No.3 Mangalbai came and caught his hands and accused No.1 Balaji came from behind and hit stick on his head and also stick was hit on his back and he was also given kick blows. It appears that in

the evidence it was claimed by PW-1 and his son PW-4 Govind Anil Shinde that PW-1 had bleeding injuries and his clothes were also stained by blood. There was evidence brought on record of PW-2 who went on to claim that sons of Anil went on tin and started pelting stones. The Sessions Court discussed all this evidence and found that the evidence given by PW-2 was a different story than what was given by PW-1 and PW-3. It also recorded that the medical evidence was that there was only contusion and no bleeding injury as claimed by PW-1 and PW-3. That, there were no wheel marks also. Session Court found PW-5 Shamrao having inimical terms with accused and did not believe him. For such reasons, the Sessions Court found that the conviction could not be maintained and reversed the same. It found that Complainant and Accused had long standing disputes since before.

6. Going through the material and looking to the evidence and reasons recorded by the Sessions

Court, the view taken by the Sessions Court is possible view of the evidence. No case is made out to Admit the Appeals.

7. Admission of both these Appeals is declined. Both the Appeals are disposed of, accordingly.

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

asb/AUG16