IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.95 OF 2004

Tukaram s/o Rangnath Panchal,
Age: 70 years, Occ: Carpenter,
R/o. Janwal, Tq. Chakur,
Dist. Latur. ..APPLICANT

VERSUS

1. State of Maharashtra

2. Suryakant s/o Rangnath Panchal,
Age: 38 years, Occ: Carpenter,
R/o. Janwal, Tq. Chakur,
Dist. Latur. ..RESPONDENTS

Mr R.R. Deshmukh, Advocate h/f Mr. R.B. Deshmukh, Advocate for applicant;
Mr R.V. Dasalkar, A.P.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 25th August, 2016

ORAL JUDGMENT :

Present criminal revision application is against the acquittal order passed by learned Judicial Magistrate, First Class, Chakur in New Regular Criminal Case No. 509 of 2002 for the offence punishable under Section 324 of the Indian Penal Code.

2. The prosecution case is that the complainant PW-1 Tukaram, who is carpenter by profession, was doing cleaning work in his field for sowing, at that time, accused persons assaulted on his head with a stone. The incident took place on 3rd June, 2001.

3. It is claimed that the incident was witnessed by PW-2 Trimbak Bakare.

4. In support of the prosecution story, the prosecution has examined four witnesses i.e. complainant PW-1 Tukaram Panchal at Exhibit-21, eye witness PW-2 Trimbak Bakare at Exhibit-24, Medical Officer PW-3 Dr. Balasaheb Jadhav at Exhibit-25, Investigating Officer PW-4 Dharmapal Gaikwad at Exhibit-27.

5. The Court below has noted that place of occurrence was not proved by the complainant PW-1 Tukaram and eye witness PW-2 Trimbak. It is

noticed that blood stained clothes of the complainant, weapon i.e. stone was not recovered. Apart from above, it is noted that the evidence of eye witness does not speak of exact place of occurrence of the evidence, as such, acquitted the accused, by the Court below.

6. While trying to make out a case for remand, learned Counsel for the applicant would urge that if the testimony of PW-1 and 2 is read harmoniously, there is no *prima facie* material to infer the involvement of the respondent-accused in the commission of crime. According to him, even if the blood stained clothes or stone, which is used in the crime in question are not recovered, still same is not detrimental to the prosecution and as as such, according to him, the case for remand is made out.

7. I have perused the evidence of PW-1 and PW-2 so as to analyze whether the prima facie case qua involvement of the respondent No. 2 in the

crime in question is made out.

8. The complainant Tukaram, who is examined at Exhibit-21, has proved the complaint at Exhibit-22 and First Information Report at Exhibit-23. In the cross examination, he has stood by the accused what has been stated by him before police and also narration about the alleged incident. PW-2 Trimbak is examined at Exhibit-24, who has stated that the accused has inflicted blow of stone on the head causing bleeding injury to the complainant. He has proved spot panchnama at Exhibit-25. In his cross examination, he has stated that he has not shown the spot to the police. In his cross examination, he has stated that his signature was obtained at police station. It is to be noted that the said aspect is not mentioned in his statement recorded under Section 162 of the Code of Criminal Procedure.

9. PW-3 Dr. Balasaheb Jadhav though has supported the case of prosecution based on the

medical evidence, however, in view of the fact that the alleged incident itself was not proved, particularly in absence of seizure of blood stained clothes, failure to prove spot panchnama, recovery of the weapon, in my opinion, the acquittal as was ordered by learned Magistrate is just and proper. No case for interference in revisional jurisdiction is made out. As such, criminal revision application fails and stands dismissed.

Sd/-
(N.W. SAMBRE, J.)

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