

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

CRIMINAL REVISION APPLICATION NO.116 OF 2004

Tukaram s/o Maroti Nemane,
Age 25 years, Occu. Labour work,
R/o Pimpalwadi, Taluka Jamkhed,
District Ahmednagar

..Applicant

Versus

1. Bajirao s/o Sarjerao Nemane,
Age 53 years, Occu. Agri.,
R/o Pimpalwadi, Taluka Jamkhed,
District Ahmednagar

2. The State of Maharashtra

..Respondents

Mr S.S. Pawar, Advocate for applicant
Mr A.D. Sugdare, Advocate for respondent No.1
Mr N.T. Bhagat, A.P.P. for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 19th August 2016

ORAL JUDGMENT

1. This revision is by original complainant in Regular Criminal Case No.42 of 1996.

2. The prosecution case appears to be that the respondent No.1-accused was prosecuted for the offences punishable under Sections 324, 323, 337, 504 and 506 of the Indian Penal Code. The present applicant was assaulted by respondent No.1-accused on 9th April 1996 with an axe and gave blow of its blade near the left hand thumb of the complainant. It is also claimed that the respondent No.1-accused pelted stone towards the complainant, which hit over the head of the complainant. It is also alleged that the accused gave blow of blunt

side of axe over left chin of complainant, which resulted into causing severe injuries to the complainant.

3. Based on the evidence of various witnesses, the learned Judicial Magistrate, First Class, Jamkhed recorded acquittal on 17th November 2003, as such present revision.

4. Heard Mr S.S. Pawar, learned Counsel for the applicant. According to him, perusal of the complaint dated 9th April 1996 would speak of a clear case of assault, which according to him was proved by the evidence of the complainant and the injuries were proved vide evidence of Medical Officer at Exh.30. Mr Pawar then would submit that the learned Magistrate has given unnecessary importance to the minor contradictions and as such, according to him, the judgment of the Court below is liable to be reversed.

5. The complainant was examined at Exh.29 and it could be noticed that panchnama - Exh.25 speaks of a place of incident, which is a cattle shade. The cattle shades of the applicant and the respondent No.1-accused are at different places, as is apparent from Exh.25 - panchnama. It is then to be noted that the complainant gave contradictory versions on the point of actual place of incident. If the testimony of complainant in the background of the time of incident, cause for entering in his cattle shade is considered, the narration of the incident by the complainant at Exh.29 does not repose much confidence. It is then to be noted that P.W.1 - Punjab, panch witness to the place of incident has not actually witnessed the incident, but he was shown the place of incident by Sakhubai, who is at all not

examined. Independent testimony of the complainant as is observed herein above since not reposing any confidence, in my opinion, the acquittal as is ordered, particularly in the light of the evidence brought on record, does not call for any interference in the revisional jurisdiction. The Criminal Revision Application as such fails, stands rejected.

(N.W. SAMBRE, J.)

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