

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 766 OF 2003

The State of Maharashtra
through Janardhan Baliram Mane
Under Police Station Ambejogai

..APPELLANT

VERSUS

1. Sandipan Chandrarao Mane,
Age : 22 years, Occu.: Agri.,
R/o Mangarwadi, Tq. Ambejogai
Dist. Beed
2. Sarjerao Chandarrao Mane,
Age : 22 years,
Occu. and r/o as above,
3. Manohar Kerba Mane,
Age : 27 years,
Occu. and r/o as above,
4. Deelip Kerba mane,
Age : 32 years,
Occu. and r/o as above

..RESPONDENTS

AND

CRIMINAL REVISION APPLICATION NO. 129 OF 2004

Janardhan Baliram Mane,
Age : 30 yrs., Occ. Agri.,
r/o. Magarwadi, Tq. Ambejogai,
Dist. Beed

..PETITIONER
(Ori.Complainant)

VERSUS

1. Sandipan Chandrarao Mane,
Age : 24 yrs., Occu.: Agri.,
R/o Magarwadi, Tq. Ambejogai

2. Sarjerao Chandarrao Mane,
Age : 23 yrs.,
Occu. and r/o as above,
3. Manohar Kerba Mane,
Age : 28 yrs.,
Occu. and r/o as above,
4. Deelip Kerba mane,
Age : 34 yrs.,
Occu. and r/o as above

5. The State of Maharashtra

..RESPONDENTS

Mr. N.T.Bhagat, A.P.P. for the appellant-State, in Criminal Appeal No. 766/2003 and respondent no. 5 in Criminal Revision Application No. 129/2004

Mr. Sharad Shinde, Advocate h/f Mr. Vivek Bhavthankar, Advocate for the revision petitioner in Criminal Revision Application No. 129/2004

Mr. S.S. Thombre, Advocate for the respondent nos.1 to 4 in Criminal Appeal No. 766/2003 as well as in Criminal Revision Application No. 129/2004

CORAM : M.T. JOSHI, J.

DATE : 11/01/2016

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the direction of the learned Judicial Magistrate First Class, Ambejogai, vide judgement and order dated 25th August, 2003, passed in Regular Criminal Case No. 262/2000, to release the present respondents on their execution of a bond to be

of good behavior for a period of one year, valued at Rs.1000/-, upon their conviction for the offence punishable under section 324 of the I.P. Code, the present appeal is filed by the State and Criminal Revision Application is filed by the original-complainant.

3. The learned Judicial Magistrate First Class has come to the conclusion that the present respondents, in furtherance of their common intention committed the said offence.

. The learned Judicial Magistrate First Class, however, found that the respondents as well as the complainant were having common cattle-shed and over the said cattle-shed, the dispute has arisen as the cattle of the respondents had eaten the fodder of the complainant and therefore, the respondents gave stick blows to the complainant.

. In the circumstances, the learned Judicial Magistrate First Class, observed that the complainant and respondents are having common cattle-shed and also living adjacent to each other. Further, taking into consideration the nature of offence and finding that

there is no previous criminal record against the respondents, the benefit was granted.

4. The learned A.P.P. as well as learned counsel for the revision petitioner relied on the ratio laid down in the cases of **"The State of Maharashtra V. Bodya Ramji Patil"**, reported in 1978 **CRI.L.J. 411(1)** and **"State, Through Police Inspector, Mapusa Police Station, Goa Vs. Shaikh Mohammad Rafiq s/o. Shaikh Amrul Hassan"**, reported in 2009 **ALL MR (Cri) 3489**.

5. In the cases, relied upon by the learned A.P.P. and learned counsel for the revision petitioner, however, on facts, the appeals were decided. Further, it was found that for extending benefit under the provisions of section 6 of the Probation of Offenders Act, 1958, calling of the report of the Probation Officer was the precondition.

. Here in the present case, however, no such compulsion is there. Upon putting a query to the learned counsel for the respondents as well as learned counsel for the revision petitioner, it is gathered that since the time of earlier incident, no other untoward incident has occurred between the parties. In that view

of the matter, I do not think it fit to interfere in the discretion exercised by the learned Judicial Magistrate First Class. In the circumstances, the following order.

6. Both, the Criminal Appeal as well as Criminal Revision Application are hereby dismissed.

[M.T. JOSHI]
JUDGE

npj/criapl766-2003