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

CRIMINAL REVISION APPLICATION NO.244 OF 2014

Ismail Khan Ibrahim Khan Pathan,
Age : 40 years, Occu.Agril.,
R/o Near Shani Mandir, Sailu,
Tq. Sailu, Dist. Parbhani

..APPLICANT
(Orig. Complainant)

VERSUS

1. The State of Maharashtra,
Through : The Police Station Sailu,
Tq. Sailu, Dist. Parbhani
2. Namdarali Khan s/o Mustafa Ali Khan,
Age : 64 years, Occ. Labour,
R/o Gujar Mohalla, Sailu,
Tq. Sailu, Dist. Parbhani
3. Ajamatali Khan s/o Namdarali Khan,
Age : 33 years, Occu. Labour,
R/o as above
4. Wahedali Khan s/o Namdarali Khan,
Age : 28 years, Occu. Labour,
R/o as above

..RESPONDENTS
(Nos.2 to 4 – Orig. Accused)

Mr M.P. Tripathi, Advocate for applicant;
Mr R.V. Dasalkar, Addl. Public Prosecutor for respondent no.1

CORAM : N.W. SAMBRE, J.

DATE : 30th August, 2016

ORAL ORDER :

The present revision is by the original complainant.

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2. Respondents no.2 to 4 – accused were prosecuted for offences punishable under sections 323, 324, 504 read with section 34 of the Indian Penal Code.

3. It was the case of the prosecution that respondents no.2 to 4 – accused had assaulted the complainant on the issue of tethering of domestic animal.

4. The charge came to be framed against the accused at Exh.17 and so as to prove its case, prosecution had examined P.W.1 Lalamiyan, an eye-witness at Exh.22, P.W.2 Ismail Khan – injured and complainant at Exh.23, P.W.3 Medical Officer Dr. Janardhan at Exh.26; P.W.4 Prabhakar – spot panch at Exh.29 and P.W.5 Head Constable Gulab at Exh.31.

5. Of the above referred witnesses, P.W.1 Lalamiyan and P.W.2 Prabhakar had not supported the prosecution case.

6. So far as evidence of the complainant is concerned, through he had narrated about he being caught hold of by two of the accused and other accused assaulted him, neither the weapon nor blood stained clothes were recovered and sent for chemical analysis.

7. Apart from above, though P.W.3 Dr. Janardhan had supported the case of the prosecution, still the omissions in the narration of the incident by the complainant and other witnesses prompted both the courts below to

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order acquittal.

8. Apart from above, it is required to be noted that there is unexplained delay of twelve hours in lodging the first information report.

9. There is no consistency in the evidence of the complainant and the contents of the first information report, which also weighed before both the courts below to order acquittal.

10. In the above background, in my opinion, no case for interference is made out for exercising revisional jurisdiction.

11. In view thereof, Criminal Revision stands rejected.

(N.W. SAMBRE, J.)

amj