

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

CRIMINAL APPEAL NO. 596 OF 2000

The State of Maharashtra
Through Bhiwandi City Police Station

...Appellant

Versus

1. Deepak Tukaram Madhavi
2. Vinayak Narayan Patil
3. Prashant Narayan Kedar
All residing at Kaneri, Tal.- Bhiwandi,
Dist.- Thane.

...Respondents

.....

Mr. Deepak Thakare, APP for the Appellant-State.
None for the Respondent.

CORAM : S. B. SHUKRE, J.
DATE : 18th MARCH, 2016.

JUDGMENT

1. This is an Appeal preferred against the judgment and order dated 24.04.2000 passed in R.C.C. No. 820 of 1996 by the Joint Judicial Magistrate First Class, Bhiwandi thereby acquitting the respondents of the offences punishable under sections 325, 427 read with Section 34 of the Indian Penal Code. Briefly stated, the facts are as under:

2. The respondents were prosecuted for the offences punishable under Sections 325, 427 read with Section 34 of the

Indian Penal Code on the allegations that at about 2.00 p.m. on 01.12.1996, the respondents subjected the complainant, Giridhar Shravan Ohalkar to severe beating by means of fist and kick blows and there by injured him grievously and also vandalized the jeep on which the complainant was working as driver. The complainant alleged that such assault on him and damage caused to the jeep was all on account of a political rivalry between his Master, Siddheshwar Kammurti and one Harishchandra Patil, a political leader belonging to the rival party. In this assault, the complainant alleged, one tooth of the complainant was lost. The damage caused to the jeep was in the nature of breaking of window pane. On the report made by the complainant, offences punishable under Sections 325 & 427 read with Section 34 of the Indian Penal Code were registered against the respondents and after completion of investigation, charge-sheet was filed against them. They were tried on merits of the case and the learned Magistrate found that the prosecution evidence did not inspire any confidence and, therefore, acquitted the respondents of the said offences by his judgment and order delivered on 24.04.2000. Not being satisfied with the same, the State has preferred the present appeal.

3. I have heard the learned APP for the State. None appears for the respondents. I have gone through the records of the case including the impugned judgment and order.

4. Upon going through the prosecution evidence available on record, I find that the view taken by the learned Magistrate is plausible and cannot be said to be arising out of perverse or arbitrary appreciation of evidence available on record.

5. There are major contradictions in the important evidence of the prosecution witnesses and that no independent witnesses appear to have been examined to corroborate the evidence of the complainant, PW 1 Giridhar. It is an admitted fact that the complainant, Giridhar was assaulted by some persons out of political rivalry between the Master of Giridhar and one Harishchandra Patil. According to Giridhar, the respondents were the persons who had assaulted him and also caused damage to the jeep, the defence contended that they were not at all involved in the incident and the allegations were made against them only because of the political rivalry between the Master of the complainant and one Harishchandra Patil. In such circumstances, it was necessary that the evidence of the complainant was duly corroborated. Then, according

to the complainant, the entire incident took place at 2.00 p.m. on 01.12.1996 but, according to PW 2 the incident took place some time before 1.30 p.m. as the complainant had approached him at 1.30 p.m. and told him about his being beaten by the respondents. This is a material contradiction in respect of which no explanation whatsoever has been given by the prosecution. Although, the clothes of the complainant were stained with blood, as per the version of the complainant, no blood stained clothes were produced before the Court. According to complainant, there was no exchange of words between himself and attackers before he was assaulted but, PW 3, the so called eye witness, had stated that there was some heated exchange of words between the complainant and the assailants. Such evidence, as stated earlier, required corroboration in order to inspire the confidence of the Court. But, there is no such corroboration provided by the prosecution evidence and as such I do not find that there is any scope for making any interference in the impugned judgment and order.

6. The Appeal stands dismissed.

(S. B. SHUKRE, J.)