

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 561 OF 2003

The State of Maharashtra
(Trough Medha Police Station,
Taluka Jawali, District Satara)

... Appellant
(Orig. Complainant)

Versus

Vasant Laxman Yadav
Age 61 years, Occu. Agriculture,
Resident of Ambeghar Turf,
Kudal, Taluka Jawali,
District Satara

... Respondent
(Orig. Accused)

.....

Mrs. Sharmila Kaushik, APP for the Appellant-State.
None for the Respondent.

.....

CORAM: ANOOP V. MOHTA, J.
DATE : 2nd JUNE, 2017

ORAL JUDGMENT :

1. The present matter is called out from specifically listed final hearing board in Summer vacation.
2. The present State Appeal is filed against the Judgment dated 13th January, 2003, passed by the Judicial Magistrate First Class, Medha, at Medha, District Satara, whereby the accused-

respondent has been acquitted of the offences punishable under Sections 325, 323, 504, 506 of Indian Penal Code. (I.P.C.). This Court, on 12th September, 2003 admitted the Appeal.

3. The complainant and the accused are in relation. The land/area in question was in issue. On 12th November, 2001, at about 7.00 a.m. when complainant about to untie the ropes of the peddy heaps, the accused Vasant Yadav came, and asked her to remove the paddy heaps, and not to untie on the land. As she refused and continued to untie the ropes, the accused kicked her in the waist. She fell down and received injury to her mouth. The accused gave beating to her with hands and abused her also. The complaint therefore came to be filed. The investigating agency referred the complainant for medical treatment to Primary Health Centre, Medha. The Panchnama of the spot was made. The statement of witnesses were recorded. The accused was arrested. As he denied the charges and pleaded not guilty, the trial proceeded.

4. The prosecution examined witnesses. The accused examined one defence witness. After considering the evidence as well as the arguments, the learned Judge by the reasoned impugned order

has acquitted the accused. Therefore, this State Appeal.

5. The law with regard to the power and scope of interference in State Appeal is settled. It is necessary to see whether there is any perversity, illegality and/or case is made out to interfere with the reasoned order of acquittal. All issues are as interlinked and interconnected decided accordingly by the common reasons.

6. Heard the learned APP for the Appellant who read the evidence and the judgment. After considering the same I am also of the view that, no case is made out to disturb and/or interfere with the finding given by the learned Judicial Magistrate. It is held that the prosecution failed to prove that on 12th November, 2001 at about 7.00 a.m. the accused voluntarily caused grievous hurt or any hurt to the complainant and therefore not committed offence punishable under Sections 325 and 323 of the I.P.C. The finding is also rightly recorded that the prosecution has failed to prove that, on that day the accused intentionally insulted and thereby gave provocation to the complainant to break the public peace and thereby committed an offence punishable under Section 504 of I.P.C. and/or there was any criminal intimidation by threatening

the complainant as contemplated under Section 506 of I.P.C.

7. The accused caused any grievous hurt or any hurt as contemplated, apart from the incident, the doctor, who examined the complainant, in his evidence not supported the case of the complainant and/or the prosecution of the grievous hurt. The evidence and the injury certificate so placed on record itself reflects the simple injury and no case of any grievous injury. The doctor has certified that such injuries could be caused by various factors and reasons. It is noted by the learned Judge that apart from simple injury mentioned in the medical certificate by PW5 Dr. Bhosale, it shows that the complainant was examined on 12th December, 2001 though the said witness stated to have examined the complainant on 12th November, 2001. No explanation is placed on record by the prosecution on this aspect. This also means that the certificate was issued after one month of the incident. This therefore falsifies the prosecution case that the complainant was examined on 12th November, 2001. The prosecution, as recorded by the learned Judge, even failed to prove the actual incident between the accused and the complainant who are in close relations. The defence witness, who was present, supports the case

of defence that there was no physical quarrel took place except oral arguments on the issue. No third party was examined even to support the incident as stated by the complainant and her daughter and son (PW2 and PW4 respectively). Even the presence of PW2 and PW4 at the time of incident on the spot was doubtful as the same was not stated by the complainant in her statement.

8. All the prosecution witnesses are interested witness being the daughter and son of the complainant. The complainant even denied the relations being cousin of the accused and the existence of the disputes and the issue about land on which incident took place. There is contradiction in the testimony of the complaint and PW2/PW4. The prosecution story appears to be concocted as even after the incident the complainant, went to the Police Station and was not taken to hospital by the daughter or the son, if they were present at the time of incident. The exchange of words between the complainant and the accused, and the complainant started abusing and not the accused this-defence case through DW1 Gulab remained intact even in the cross examination.

9. The learned Judge has also noted that the exaggeration made by the complainant in her examination-in-chief that the accused sat on her body and kicked her, due to which she received bleeding injury to her teeth. PW2 and PW4 deposed this also in support of the same and further stated that they rescued the complainant from the accused, but has rightly noted that there was no such facts mentioned in the complaint Exhibit-13 and Exhibit-12 by the complainant. Therefore, the statement of PW2 and PW4 recorded, is doubtful and so also their presence. In the cross examination, the complainant has admitted the strained relationship between her and the accused on account of dispute between them regarding the spot of incident.

10. Taking overall view of the matter and keeping in mind the scope and purpose and power of Appellate Court while dealing with the case of State against acquittal and as there is no perversity or any illegality and as the view so expressed by the learned Judge and the finding so arrived at of acquittal, in my view, therefore, need no interference and the appeal is required to be dismissed.

ORDER

- (i) The appeal is dismissed.
- (ii) The bail bond, if any, is cancelled. No costs.

(ANOOP V. MOHTA, J.)