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

CRIMINAL APPEAL NO.563 OF 2005

Mahadeo Saudagar Gidde and Ors.

...Appellants
(Orig. Accused Nos.1,
3, 5, 6, 9, 10, 11, 14
and 15 respectively)

Versus

The State of Maharashtra,

...Respondent

**WITH
CRIMINAL APPLICATION NO.1385 OF 2016
(For Cancellation of Bail)
IN
CRIMINAL APPEAL NO.563 OF 2005**

The State of Maharashtra

...Applicant
(Orig. Respondent)

Versus

Mahadeo Saudagar Gidde

...Respondent
(Orig. Accd. No.1)

**WITH
CRIMINAL APPEAL NO.603 OF 2005**

Kisan Vitthal Raut and Ors.

... Appellants.
(Orig. Accused Nos.2,
4, 7, 8, 12 and 13
respectively)

Versus

The State of Maharashtra

...Respondent

**WITH
CRIMINAL APPLICATION NO.1384 OF 2016
(For Cancellation of Bail)
IN
CRIMINAL APPEAL NO.603 OF 2005**

The State of Maharashtra

...Applicant
(Orig. Respondent)

Versus

Hanmant Ganpat Gidde and Ors.

...Respondents
(Orig. Accd. Nos.7, 12, 13)

Mr.Shirish Gupte, Senior Advocate a/w Mr.B.R.Patil and Ms.U.V.Kejriwal i/b Mr.M.A.Chaudhari, for the Appellants in Criminal Appeal Nos.563 of 2005 and 603 of 2005 and for the Respondents in Criminal Application Nos.1384 and 1385 of 2016.

Mr. H. J. Dedia, A.P.P for the State.

Mr.Jaydeep Mane, for the Original Complainant.

**CORAM : SMT.V.K.TAHILRAMANI &
REVATI MOHITE DERE, JJ.**

DATED : 7th SEPTEMBER, 2017

P.C. :

1. For the reasons separately recorded in the judgment

the following order is passed:

ORDER

- (i) Criminal Appeals Nos.563 and 603 of 2005 are partly allowed;
- (ii) The conviction and sentence of Hanmant Gidde (A7), Yuvraj Raut (A12), Kisan Raut (A2) and Ganpat Sarde (A4), for the offence punishable under Section 302 r/w 149 of the I.P.C., is set aside. Instead, we convict Hanmant Gidde (A7) for the offence punishable under Section 326 r/w 149 of I.P.C. and sentence him to suffer rigorous imprisonment for 7 years and to pay fine of Rs.50,000/- in default to suffer simple imprisonment for 6 months, for the death of Machindra. As far as, Yuvraj (A12), Kisan (A2) and Ganpat (A4) are concerned, they are convicted for the offence punishable under Section 324 r/w 149 of the I.P.C and are sentenced to suffer rigorous imprisonment for 3 months and to pay fine of Rs.20,000/- each, in default, to suffer simple imprisonment for 3 months, for the assault on Machindra;
- (iii) The conviction and sentence of Kisan Raut (A2), Ganpat Sarde (A4), Balaji Gidde (A8), Yuvraj Raut (A12), Bibhishan Raut (A13), for the offence punishable under Section 307 r/w 149 of I.P.C. is set aside. Instead, we convict Balaji (A8) and Kisan (A2) for the offence

punishable under Section 326 r/w 149 of I.P.C. for the assault on Tanaji, and sentence them to suffer rigorous imprisonment for 5 years and to pay fine of Rs.25,000/- each, in default to suffer simple imprisonment for 6 months, for the assault on Tanaji. As far as Yuvraj (A12) and Ganpat (A4), are concerned they are convicted for the offence punishable under Section 324 r/w 149 of the I.P.C. along with the other co-accused and are sentenced to suffer rigorous imprisonment for 3 months and to pay fine of Rs.15,000/- each, in default, to suffer simple imprisonment for 3 months, for the assault on Tanaji;

- (iv) The conviction and sentence of Mahadeo Saudagar Gidde (A1), Sarjerao Pralhad Raut (A3), Suresh Rajaram Sarde (A5), Shantabai Ganpat Gidde, (A6), Balaji Ganpat Gidde (A8), Dattatraya Saudagar Gidde, (A9), Hanmant Eknath Laad (A10), Suryabhan Bhagwan Ubale (A11), Bibhishan Vitthal Raut (A13), Tukaram Rajaram Sarde, (A14) and Shobha Yuvraj Raut, (A15), for the offence punishable under Section 324 r/w 149 of the I.P.C i.e. assault on deceased - Machindra is confirmed. However, their sentences are reduced and modified. The said accused shall now suffer imprisonment of 3 months and shall pay fine of Rs.15,000/- each, in default, to suffer simple imprisonment for 3 months;
- (v) The conviction and sentence of Mahadeo Saudagar Gidde

(A1), Sarjerao Pralhad Raut (A3), Suresh Rajaram Sarde (A5), Shantabai Ganpat Gidde, (A6), Hanmant Ganpat Gidde (A7), Dattatraya Saudagar Gidde, (A9) Hanmant Eknath Laad (A10), Suryabhan Bhagwan Ubale (A11), Tukaram Rajaram Sarde (A14) and Shobha Yuvraj Raut, (A15) for the offence punishable under Section 324 r/w 149 of the I.P.C. i.e. for the assault on Tanaji, is confirmed. However, their sentences are reduced and modified. The accused shall now suffer imprisonment of 3 months and to pay fine of Rs.10,000/- each, in default, to suffer simple imprisonment for 3 months;

- (vi) The conviction of Mahadeo Gidde (A1), Sarjerao Raut (A3), Suresh Sarde (A5), Shantabai Gidde, (A6), Dattatraya Gidde (A9), Hanmant Laad (A10), Suryabhan Ubale (A11), Tukaram Sarde (A14) and Shobha Raut (A15), for the offence punishable under Section 323 r/w 149 of I.P.C. i.e. for the assault of Navnath is confirmed. However, their sentences are modified and reduced to undergone sentence.
- (vii) The conviction of all the appellants under Section 147 r/w 149 of I.P.C and under Section 148 r/w 149 of I.P.C are maintained;
- (viii) The conviction and sentence of Hanmant Gidde (A7), for the offence punishable under Section 504 of the I.P.C, is

confirmed.

(All the sentences to run concurrently).

(ix) From the fine amounts so recovered, the trial Court shall pay compensation under Section 357(1) of Code of Criminal Procedure, to the wife of the deceased - Machindra and to Tanaji, as awarded hereinabove.

(x) The appellants are on bail. Their bail bonds stand cancelled. The appellants to surrender within 3 weeks.

. In view of the aforesaid, Criminal Application Nos.1384 and 1385 of 2016, filed by the State seeking cancellation of appellants bail, do not survive and the same are disposed of.

(REVATI MOHITE DERE, J.)

(V.K.TAHILRAMANI, J.)