

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.94 OF 2017

(for leave to appeal)

ALONG WITH

CRIMINAL APPEAL NO.458 OF 2018

The State of Maharashtra.	]	... Applicant / Appellant
Versus		
Vithal Shivaji Patil & Ors.	]	... Respondents / Orig. Accused

Mrs. M. H. Mhatre, APP for State – Applicant / Appellant
Mr. U. R. Mankapure for Respondent Nos.1 to 3.

**CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.**
DATE :- 19 JUNE, 2018

P. C. :-

1. The State has approached this Court being aggrieved by the Judgment and Order dated 26/04/2017 passed by the learned District Judge-1 & Additional Sessions Judge, Islampur, in Sessions Case No.57 of 2013.

2. Heard Mrs. M. H. Mhatre, learned APP for State – Applicant / Appellant and Mr. U. R. Mankapure, learned Counsel for Respondent Nos.1 to 3.

3. Learned APP submitted that taking into consideration the nature of injuries sustained by the injured witnesses, the learned trial Judge ought to have convicted the Respondents for the offence punishable under Section 307 of the IPC or, at least, under Section 326 of the IPC.

4. We have perused the evidence placed on record. It appears that after the election results of Grampanchayat were announced, there were processions by the rival groups. It further appears that during the processions, there were free fights between the two groups. For the same incident, two FIRs were lodged. Insofar the victims in the present case are concerned, they are accused in Sessions Case No.35 of 2016. The learned trial Judge has though convicted the accused in the said sessions trial for the offence punishable under Section 326 of the IPC, they have only been sentenced to pay fine.

5. Insofar as the present accused are concerned, the accused are convicted for the offence punishable under Sections 452 and 323 read with Section 34 of the IPC and are sentenced to suffer imprisonment for fifteen days.

6. It is pertinent to note that no Government Medical Officer has been examined in the present case nor there is any medical certificate by any Government Medical Officer. The only medical expert examined in the case is PW 11 Dr. Vinod Shnkar Paramshetti.. He has clearly admitted that he is a family doctor of the injured persons. The learned trial Court, upon perusal of the evidence of the eye witnesses, has found that there is no grievous injury to any of the witnesses.

7. No perversity is noticed to warrant interference.

8. Hence, leave is rejected. Criminal Application No.94 of 2017 is disposed of.

9. In view of disposal of Criminal Application No.94 of 2017, Criminal Appeal No.458 of 2018 is dismissed.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)