

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

CRIMINAL APPEAL NO. 1407 OF 2003

The State of Maharashtra

...Appellant

Versus

Pandharinath Dnyanu Jadhav & Ors.

...Respondent

...

Shri. Arfan Seth, Learned APP for the State.

CORAM : SANDEEP K. SHINDE, J.
DATE : 26th SEPTEMBER 2019.

P.C.

1. State has preferred this appeal under Section 378 (1) of the Code of Criminal Procedure against the judgment and order of acquittal passed by the Joint Judicial Magistrate, First Class, Koregaon, District Satara in Regular Criminal Case No. 8 of 1997.
2. Heard, Mr. Seth learned APP for the State.
3. On 01.04.2000, charge was framed against Respondents – accused under Section 324, 504, 506 read with 34 of the Indian Penal Code.
4. It is evidence of the injured that on account of pending land-

boundary dispute on 26.12.1996, he was assaulted by the accused by fists and kick blows and in the course of it lifted and thrashed him hard. Medical officer said injuries suffered, were caused by kick and fists blows. Certificate is at Exhibit – 51.

5. The panch witness to the spot turned unfriendly to prosecution. He was declared hostile and was cross-examined.

6. In absence evidence of independent witness, the trial Court disbelieved the evidence of the complainant.

7. To sustain charge under Section 324, inflicting injuries and causing hurt by the dangerous weapon or means is the necessary ingredient. In this case, neither weapon was recovered nor it is proved, injuries were caused by such a weapon. In view of this, the charge under Section 324 was not proved.

8. The alleged incident had taken place in the morning at 08:00 am on the public street, in village and therefore the prosecution ought to have examine the independent witnesses. It is difficult to digest that nobody had witness the incident, though it occurred on the village street in

early hours. In absence of the independent witness, the trial Court disbelieved that injuries were caused by the respondent accused. Besides, motive has not been established. Thus upon consideration the facts of the case and the evidence on record, view taken by the trial Court is possible view and therefore no interference is called for. Appeal is dismissed.

(SANDEEP. K. SHINDE, J.)