

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

CRIMINAL APPEAL NO. 575 OF 1998

State of Maharashtra ... Appellant.

V/s.

1. Sau. Narmada Ganpat Mulik
Aged about 50 yrs. Resident of
Songaon, Tal. & Dist. Satara.
2. Smt. Parubai @ Parvati Namdeo
Jadhav, aged about 45 years,
resident of Sonagaon, Tal. &
Dist. Satara.
3. Sarubai w/o. Govind Mulik
aged about 50 years, R/o.
Sonagaon, Tal. & Dist. Satara. ... Respondents.

Mrs. Prajakta P. Shinde, APP for State.

Mr. Shekhar Jagtap a/w. Ms. Sairuchita Chowdhary a/w. Mr. Ninad
Naik i/b. Ms. Manisha Jagtap, advocate for respondents.

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**CORAM : SMT. SADHANA S. JADHAV &
N.J. JAMADAR, JJ.**

**RESERVED ON : SEPTEMBER 3, 2020.
PRONOUNCED ON : SEPTEMBER 8, 2020.**

JUDGMENT :

. Heard the learned APP for State and the learned Counsel
for the respondents.

2 The State of Maharashtra being aggrieved by the Judgment and Order of acquittal dated 12/2/1997 passed by the Additional Sessions Judge, Satara acquitting accused Nos. 4, 5 and 6 in Sessions Case No. 186 of 1991, has preferred this appeal against acquittal.

3 Perused the records and proceedings as well as Judgment. Learned APP has submitted that the learned Sessions Judge has not appreciated the evidence on record in its proper perspective. That there is overt act attributed to each of the acquitted accused. According to the learned APP, the accused/respondents have actively participated in the assault and that they have assaulted complainant/PW. 4 as well as PW. 5 and PW. 6 and that in the course of investigation a stick was also recovered at the instance of the accused.

4 It is seen from the records that the complainant had not named the present respondents in the first information report. However, in the supplementary statement, the complainant had implicated the present respondents and attributed overt act to each of them. All the injuries are attributed to accused Nos. 1, 2 and 3 and the

deceased Govind Mulik. Govind Mulik had died in the same incident dated 20th May, 1991.

5 That in the statement under section 313 of the Code of Criminal Procedure, 1973, the accused persons/respondents had submitted written statement in which the actual scene of offence and very commencement of the altercation has been pleaded, which is suppressed by the prosecution witnesses, although the pleadings are corroborated by the evidence brought on record by the prosecution.

6 In Criminal Appeal No. 118 of 1997, this Court has held that the prosecution witnesses have suppressed the genesis of the offence. In the case of **Shivaji Sahebrao Bobade and anr. v/s. State of Maharashtra reported in AIR 1973 SC 2622**, the Hon'ble Apex Court has observed as follows :

“an acquitted accused should not be put in peril of conviction on appeal save where substantial and compelling grounds exist for such a course.”

7 In view of the reasons assigned in Criminal Appeal No. 118 of 1997 and in view of the acquittal of the accused Nos. 1, 2 and 3,

present appeal deserves to be dismissed, as no case for interference is made out. Hence, the appeal challenging acquittal of respondent Nos. 1, 2 and 3 is dismissed in limine and disposed of accordingly.

8 This order will be digitally signed by the Private Secretary of this Court. All concerned will act on a digitally signed copy of this order.

(N.J. JAMADAR, J)

(SMT. SADHANA S. JADHAV, J)