

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

**CRIMINAL APPLICATION NO.6 OF 2021  
(For Leave to file Appeal)**

The State of Maharashtra

.... Applicant  
(Orig. Complainant)

versus

Nitin Waman Koli

.... Respondent  
(Orig. Accused No.1)

.....

- Ms.Veera Shinde, APP for the State.
- Mr.Prakash Sanap, PSI, Trombay Police Station, present in Court.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 31<sup>st</sup> AUGUST, 2021**

**P.C. :**

1. Heard learned APP

2. With the assistance of learned APP, I have perused the impugned judgment and depositions of witnesses. The prosecution case is that on 21/03/2013, the accused was playing in a musical programme. Somebody threw dirt on him.

He got angry and beat P.W.2 Amin Abdul Ajij. He suffered

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injuries to his shoulder. He complained his mother, who came to the spot and saw the accused and went to the police station and lodged complaint. The investigation was carried out and the matter proceeded to trial before the learned Metropolitan Magistrate, 60<sup>th</sup> Court, Kurla, Mumbai. The Respondent accused faced charge u/s 325 of the Indian Penal Code. During the course of trial, the prosecution examined victim Amin Abdul Ajij as P.W.2, his mother Madina Abdul Ajij as P.W.1, I.O. Rajendra Jadhav as P.W.3 and Dr.Sudhir Chaudhary, Medical Officer attached to Sion Hospital, who was examined as P.W.4.

3. P.W.1 was not an eyewitness. She was not knowing the accused. She relied on the version given by P.W.2.
4. The victim P.W.2 Amin Abdul Ajij has deposed before the Court in the year 2018. The incident had taken place in the year 2013. P.W.2 was not knowing the accused. He has admitted that there were about 10-15 persons playing in that musical programme. The accused was wearing the same uniform as

others. No test identification parade was held. Therefore identity of the offender, if any, is not properly established.

5. The Medical Officer has stated that the injury was simple in nature. Therefore in any case the offence could not fall within the section of 325 of IPC. Even otherwise, there is no sufficient evidence against the present Applicant. Admittedly it was a crowded locality. There were many people attending the function. No other independent witness is examined.

6. Learned trial Judge has considered all these aspects in acquitting the accused. The view taken by the learned trial Judge is a possible view. There is no perversity in the judgment and order. Therefore I do not find it a fit case, which needs interference. The application for leave to file the appeal, is rejected.

**(SARANG V. KOTWAL, J.)**