

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1057 OF 2007**

The State of Maharashtra
At the instance of
Chandrakant Narsinha Bharankar,
R/o – Bhade, Age – 25 years,
Tal – Lanja, Dist. - Ratnagiri.

....Appellant
(Orig. Complainant)

V/s.

1. Maruti Chandrakant Yadav
Age – 44 years,
R/o – Gavkhadi, Ratnagiri.

2. Ramchandra Babaji Bodekar,
Age – 25 years,
R/o – Khanavali, Tal. - Lanja.

3. Pramod Pandurang Bodekar,
Age – 20 years,
R/o – Khanavali, Tal. - Lanja.

4. Pradeep Maruti Todankar,
Age – 35 years,
R/o – Bhalavali, Tal. - Lanja.

5. Velhal Waman Raut @ Baba Raut,
Age – 49 years,
R/o – Gavkhadi, Ratnagiri.

....Respondents
(Orig. Accused)

Ms. PN. Dabholkar, APP for State.
None for Respondents.

**CORAM : K.R.SHRIRAM, J.
DATED : 12th MARCH, 2021.**

ORAL JUDGMENT :

1. This is an appeal impugning an order and judgment dated 27th January, 2006 passed by the Additional Sessions Judge, Ratnagiri acquitting

the respondents (hereinafter referred as accused) of offence punishable under Section 429 (*Mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees*), Section 286 (*Negligent conduct with respect to explosive substance*) r/w 34 of the Indian Penal Code and under Sections 5 (*Punishment for making or possessing explosives under suspicious circumstances*) Sub Section 3 (1) (a) (*Punishment for causing explosion likely to endanger life or property*) of Explosive Substances Act.

2. I have perused the evidence and the impugned judgment. Learned APP in fairness and as an officer of the court agreed that the only basis on which accused have been charged is because PW. 1 heard an explosion at 7.30 p.m. on 08/05/2003 and when he came to the road, he saw Accused Nos.1, 2 and 3 alongwith two others coming from the side of the spot where explosion took place. The house of accused were searched and nothing was found. Learned APP agreed that even if we go through the cross-examination of PW. 2, the road on which accused were seen on 08/05/2003 by the complainant and PW. 2 was the main road in the area of accused and accused are also residents of the same area living in the vicinity. Learned counsel fairly stated that the finding of the Trial Court that finding accused on the road cannot be treated as circumstances against accused cannot be faulted. Even PW. 3 panch witness has deposed that police had called him to seize bombs from a particular place. PW. 3 says “*I had enquired with the police as to where we were to go and for what*

purpose. Police told me that we were to visit the particular spot and to seize the explosive bombs. When I went to the spot the police were already there". Therefore even this evidence of PW. 3 cannot be accepted.

3. In the circumstances, Appeal dismissed.

(K.R. SHRIRAM, J.)