

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.270 OF 2019

1. Sunil Madhavrao Watekar,
Aged about 38 years,
Occ: Labour.
2. Dhanlal Madhavrao Watekar,
Aged about 40 years,
Occ: Labour.

Both R/o Dumri (Khurd),
Tah. Parseoni, Dist. Nagpur. **APPELLANTS**

...V E R S U S...

State of Maharashtra through
Police Station Officer Parseoni,
Dist. Nagpur. **RESPONDENT**

Mr. R. K. Pillai, Advocate for Appellants.
Mr. M. K. Pathan, APP for Respondent/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **14th DECEMBER, 2021.**

ORAL JUDGMENT:

This revision is preferred challenging the judgment dated 21.11.2016 rendered by the Judicial Magistrate First Class, Parseoni, District Nagpur in Regular Criminal Case 30/2015 whereby the appellants, who shall be hereinafter referred to as the accused, are convicted for offence punishable under section 324 of

the Indian Penal Code and are sentenced to suffer simple imprisonment for two months and to payment of fine of Rs.1000/- (Rupees One Thousand) each and in default of payment of fine of Rs.1000/- (Rupees One Thousand) to suffer further simple imprisonment for fifteen days, and the judgment dated 22.10.2019 rendered by the Additional Sessions Judge, Nagpur in Criminal Appeal 265/2016 whereby the judgment of conviction is confirmed and the appeal dismissed.

2. The case of the prosecution is that the accused and their father Madhavrao have some dispute with the Ballare family which is the owner of the adjoining agricultural field, and a civil suit is pending between the Ballare and Watekar families. The incident dated 03.02.2015 is a fall out of the said dispute. The prosecution case, as can be culled out from the report lodged by PW-1 Suresh Ballare and the evidence on record is that at 09:00 a.m., while Suresh had gone to his field he noticed Madhavrao and the accused damaging/cutting the thorn compound. Suresh confronted Madhavrao and the accused and in response he was abused and assaulted with stick. The wife and mother of Suresh sought to intervene, and they too were assaulted with sticks.

3. Relying on the evidence of PW-1 Suresh Ballare, PW-2 Smt. Shantabai Ballare and PW-5 Smt. Sharda Ballare, the learned Magistrate held that the prosecution proved beyond doubt that the accused assaulted the said witnesses with stick. Madhavrao was however, acquitted of the charges. The Appellate Court re-appreciated the evidence on record and concurred with the findings recorded by the learned Magistrate.

4. The learned counsel for the accused Mr. Pillai would submit that in the absence of independent evidence, the courts below committed serious error in recording a finding of guilt. The other submission is that since the Doctor who issued the injury certificate was not examined, the accused could not have been convicted for offence punishable under section 324 of IPC. Finally, Mr. Pillai questions the sentence imposed, which according to him is quite harsh considering that the incident is a fallout of civil dispute.

5. I have scrutinized the record, not in order to re-appreciate the evidence, which I obviously cannot do in exercise of revisional jurisdiction, but to ascertain whether there is any miscarriage of justice. I have no doubt in my mind, that the

concurrent view suffers from no infirmity, factual or legal, much less an infirmity as would occasion serious miscarriage of justice.

6. The report is lodged promptly. The evidence of the three injured witnesses is consistent. It is true that the injury certificates are admitted on record during the evidence of the injured witnesses and the Doctor is not examined. However, the accused did not dispute the injuries suffered by the witnesses and the suggestion given in the cross-examination is that the witnesses suffered injuries due to “mutual quarrel”. In this view of the matter, I do not see any reason to interfere in the findings of fact recorded concurrently. In so far as sentence is concerned, the accused do not deserve any leniency in as much as the dispute, if at all, was with Suresh. The accused were not justified in assaulting PW-1 Suresh and the misconduct is only aggravated since the accused wantonly assaulted the wife and mother of PW-1 Suresh. Fortunately, although a vital part of the body i.e. head was targeted as is apparent from the injuries suffered, the witnesses did not suffer fracture of the skull or similar grave injury.

7. The courts below have already shown leniency in as much as the accused are sentenced to suffer simple imprisonment

and that too for two months. There is no reason to further reduce the sentence. The revision is sans merit, and is dismissed.

8. The bail bond of the accused shall stand cancelled.

9. The accused shall surrender to suffer the remainder of the sentence within the next seventy-two hours.

10. If the accused do not surrender, the Police Station Parseoni, District Nagpur shall take the accused in custody and produce them before the jurisdictional court.

11. Compliance report shall be filed by the Station Officer, Police Station Parseoni, District Nagpur in the registry of this Court within the next seven days.

JUDGE

NSN