

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 74 OF 2020

Raju Girdhari Gawle ... Applicant

Versus

The State of Maharashtra and others ... Respondents

Mr. K. T. Shirrurkar, Advocate for the Applicant.

Mr. S. P. Tiwari, APP for Respondent No. 1.

Mr. V. D. Gunale, Advocate for Respondent Nos. 2 to 4.

CORAM : BHARAT P. DESHPANDE, J.

DATED : 01st AUGUST, 2022.

PER COURT :-

. The original complainant has preferred revision petition thereby challenging the concurrent findings of acquittal of the respondent Nos. 2 to 4 in connection with offence registered against the accused for the offence punishable under Sections 325, 324, 323, 504, 506 r/w Section 34 of the Indian Penal Code (for short "IPC").

2. Heard the learned counsel for the applicant, the learned APP for the respondent No. 1 and Mr. Gunale, the learned counsel for respondent Nos. 2 to 4.

3. The learned Magistrate at Ahmadpur vide its judgment in Regular Criminal Case No. 23/2006 acquitted the respondent Nos. 2,

3 and 4 (original accused Nos. 1, 2 and 3) on the ground that evidence of the prosecution witnesses is not reliable and is not supported by medical evidence. Similarly, the panchanama shows a place of offence which is not deposed by the witnesses as actual place of offence.

4. The applicant/original complainant then preferred appeal before the learned Additional Sessions Judge in Criminal Appeal No. 3/2014 challenging the judgment of the learned Magistrate of acquittal.

5. The learned Additional Sessions Judge, Ahmadpur vide its judgment dated 07.02.2020, confirmed the findings of the learned Magistrate and dismissed the appeal.

6. The learned counsel for the applicant strenuously urged that the findings of both the Courts below are perverse and have failed to consider the evidence of the witnesses in proper manner. He argued that though FIR disclosed the threat to the life of the complainant, the learned Magistrate came to different finding which is clearly perverse.

7. The learned APP appearing for the State invited attention of this Court to the fact that after acquittal of the accused persons by the learned Magistrate, the State has filed application for leave to file

appeal vide Criminal Application No. 944 of 2014 before this Court. However, vide its order dated 24.07.2015, such leave was rejected with reasons.

8. The learned counsel appearing for the respondent Nos. 2 to 4 forcefully submitted that both the Courts below rightly appreciated evidence and acquitted accused and therefore, no interference is warranted in the present revision.

9. I have considered the submissions and after going through the record, it is clear that though FIR makes a reference about threat to the life, it is not specific as to which accused gave such threat to the informant. Therefore, the finding of the learned Magistrate to that effect cannot be faulted with.

10. The evidence of the witnesses is found to be untrustworthy for the simple reason that there is no consistency with the depositions of witnesses. There are material variations and discrepancies. The medical evidence is not supporting the contention regarding injury to the mouth and felling of the teeth of the injured person.

11. The juvenile who was tried separately before the Board though initially convicted by the Board for the offence punishable under Section 324 of the IPC, was acquitted by the Sessions Court in appeal.

Such acquittal has not been challenged by the State or even by the present complainant.

12. Considering the reasons disclosed in both the decisions passed by the Courts below, it is clear that the findings are based on the facts and the conclusions are drawn on the basis of material placed before it. Such findings are neither perverse, nor illegal and therefore, no interference is warranted in the present revision petition. The criminal revision application therefore, stands rejected.

(BHARAT P. DESHPANDE, J.)

P.S.B.