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

CRIMINAL REVISION APPLICATION NO.76 OF 2021

**DNYANESHWAR PUNDALIK KAWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Applicant : Mr. Lavte Amar V.
APP for Respondent/State : Mr. K.S. Patil
Advocate for Respondent Nos.2 to 5 : Mr. Jitendra M Wagh

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CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 02, 2023

PER COURT:-

1. Heard the respective counsels.
2. The applicant/informant has preferred this revision against the order of acquittal of learned Judicial Magistrate First Class, Sillod in RCC No.294 of 2014 dated 08.03.2018 and judgment and order of the learned Additional Sessions Judge-6, Aurangabad in Criminal Appeal No.80 of 2018 dated 04.01.2020.
3. Learned counsel for the applicant has vehemently argued that both the Courts below have committed error of law in appreciating the evidence. There was eye witnesses to the incident who separated the quarrel and took the injured to the hospital. The overall statement of the injured eye witness was supported with medical certificate. However, both the Courts have discarded this material evidence. Both Courts have unnecessarily given weightage

to the previous enmity which is a two edge weapon. He read both the judgments and tried to put the case that both the Courts did not appreciate the evidence in proper perspective. He also referred to evidence of the witnesses. He prayed to direct the trial Court to rewrite the judgment.

4. Per contra, learned counsel for the accused/non-applicant has vehemently argued that the evidence has been correctly appreciated. There were material discrepancies in the statement of the witnesses. Specific observations were recorded that the medical evidence does not support the prosecution case. The facts of the prosecution case did not transpire the confidence about the occurrence of the incident as alleged. The prosecution case was also considered upon circumstantial evidence. However, the Court did not satisfy. Therefore, there is no error on the face of the record in the impugned judgment and order. The petition deserve to be dismissed.

5. Perused both the judgments. Both have discussed the ocular evidence, spot panchnama and medical evidence at length. Appreciating the material, both the Courts have concluded that the prosecution has failed to prove the case beyond the reasonable doubt. There were material inconsistencies in the evidence of the material witnesses and lack of corroboration. Perusal of both the judgments does not reveal that the evidence has not been discussed. On the contrary, it appears that it was discussed elaborately. The reasons

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have also been given to discard the evidence. Both impugned judgments and orders are free from infirmity. The Court does not find a substance in the revision application. There are no errors on the face of record. Hence, revision application stands dismissed.

(S.G. MEHARE, J.)

Mujaheed//