

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

CRIMINAL REVISION APPLICATION NO.491 OF 2004

1. Ramrao Trambak Dhangar,
Age : 39 Years, Occ. Agriculture,
2. Kailas Trambak Dhangar,
Age : 34 Years, Occ. Agriculture,
3. Deelip Trambak Dhangar,
Age : 29 Years, Occ. Agriculture
4. Balu Rajdhar Dhangar,
age : 34 Years, Occ. Agriculture,
5. Ratiram Rajdhar Dhangar,
Age : 31 Years, Occ. Agriculture.

All resident of Chikhali Tq. Muktainagar,
Dist. Jalgaon.

..Appellants
(Orig. Accused)

VERSUS

1. Sau. Savitrabai Sharavan Dhangar,
age : 54 Years, Occ. Agriculture,
R/o. Chikhali, Tal. Muktainagar,
2. The State of Maharashtra,
(Through Govt. Pleader High
Court Bench at Aurangabad)

.. Respondents
(Res.No.1 Orig. complainant)

...

Advocate for Applicants : Apparao Yenegure
(Appointed Through Leagl Aid)

APP for Respondent No.2: Mr. Y. G. Gujarathi

Advocate for Respondent No.2 : Pallavi Gawande h/f Mr. V. B.
Patil

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CORAM : S. G. MEHARE, J.

DATE : 10.07.2023

ORAL JUDGMENT :

1. Heard the learned counsel for the applicants, the learned A.P.P. for the respondent No.1/State and the learned counsel for respondent No.2/victim.

2. Being dissatisfied with the judgment of conviction passed by the learned Judicial Magistrate, First Class, Mutktainagar in R.C.C. No. 86/1996 decided on 6.6.2000 and confirmed by the learned Additional Sessions Judge, Jalgaon in Criminal Appeal No. 28/2000 dated 17.02.2004 the applicants have preferred this revision.

3. The learned Judicial Magistrate held the applicants guilty for the offences punishable under Section 324, 504, 506 Part-II read with Section 34 of the Indian Penal Code. However, in an appeal the learned Additional Sessions Judge, acquitted the applicants of the offence punishable under Section 504 and 506 part II of the Indian Penal Code and maintained the conviction under Section 324 read with Section 34 of the Indian Penal Code.

4. The learned counsel for the applicants would submit that there was a delay in lodging the First Information Report. It was not considered by both Courts. It was an accidental case. The injured was

under the influence of liquor and he fell down. This material aspect has also not been considered.

5. The learned A.P.P. and the learned counsel for the victim/injured would submit that the prosecution has proved the case beyond a reasonable doubt. The injured and other witnesses categorically deposed against the applicants. They have been corroborated by the medical evidence. There was no delay in lodging the First Information Report as the injured was immediately hospitalized and time was spent in completing the process of lodging the First Information Report. Both Courts have correctly accepted the reasons for so called delay in lodging the report. There was cogent and reliable evidence to believe the prosecution case. There was no error on the face of record in the impugned judgment and orders. Hence, the revision deserves to be dismissed.

6. Perused the impugned judgments and orders. It appears that the prosecution evidence has been appreciated correctly. The Courts have correctly believed that the applicants in furtherance of their common intention have caused the injury to the injured. Since the injured was immediately taken to hospital and he was under treatment and then the report was lodged, it cannot be said a delay in

lodging the First Information Report. The accusations levelled against the applicants were proved. There were no errors apparent on the face of record.

7. The learned counsel for the applicants would submit that the benefit of the Probation of Offenders Act, 1958 ought to have been granted to the applicants.

8. Per contra, the learned counsel for the victim/injured would argue that considering the aggressiveness of the applicants, they would not be entitled for the benefit of the Probation of Offenders Act.

9. Perusal of the record reveals that the incident happened long back in the year 1996. The dispute arose on laying the earth in front of the house of one Rambhau Kakade and Namdeo Kakade. The village *panchayat Sarpanch* tried to resolve the dispute. However, the applicant no.1 got annoyed and the incident happened. It seems that there were trifle reasons for the quarrel.

10. The learned A.P.P. has fairly conceded that there were no antecedents to the discredit of the applicants.

11. Considering the nature of the incident, and reasons therefor the

Court is of the view that this is a fit case to exercise the power under Section 4 of the Probation of Offenders Act. Hence, the following order.

ORDER

- (i) The petition stands partly allowed.
- (ii) Both impugned judgments and orders do not warrant interference. However, it is expedient to extend the benefit under Section 4 of the Probation of Offenders Act 1958.
- (iii) The applicants/accused No.1 Ramrao Trambak Dhangar, applicant No.2 Kailas Trambak Dhangar, applicant No.3 Deelip Trambak Dhangar, accused No.4 Balu Rajdhar Dhangar and No.5 Ratiram Rajdhar Dhangar are convicted for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code. However, instead of sentencing them at once to any punishment, the applicants/accused be released on their entering bond with one sureties of Rs. 5000/- each for the period of six months and to appear and receive the sentence when called upon during the period of six months and in the mean time keep the peace and good behaviour.
- (iv) The applicant to furnish the bonds as directed above, before the learned Judicial Magistrate First Class, Muktainagar.

- (v) Record and proceeding be returned to the learned Judicial Magistrate, Muktainagar.
- (vi) Rule made partly absolute.

(S. G. MEHARE)
JUDGE

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