

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1690 OF 2024
IN
REVISION APPLICATION NO. 191 OF 2024**

Madhukar Bemtya Gavand

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep Patil and Ashish Kumar Srivastava i/by Ms. Saili Dhuru	Advocate for the Applicant
Mr. Y. Y. Dabke	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 24th APRIL 2024

P. C. :-

1. Heard learned Advocate Shri Patil for the Applicant-accused and learned APP.
2. The Court of the JMFC has convicted the accused for the offence punishable under Section 326 of the Indian Penal Code. The sentence is three years rigorous imprisonment and fine of Rs. 4000/-, at page no. 27. It is confirmed by the Appellate Court on 21/02/2024 and that is

why present revision.

3. In all there are ten witnesses examined. The material witness is PW No. 1 injured. Whereas witness nos. 5, 6, 8 and 9, they came to the spot after hearing the noise. Though they have not witnessed the incident, according to them, they saw the injured as well as the Applicant at the spot and the Applicant was running alongwith knife. There is evidence of the medical officer PW No. 7. He gave evidence on the basis of the certificate. He has not examined PW No. 1. There is recovery of knife, under Section 27 of the Indian Evidence Act.

4. Learned Advocate Shri Patil prays for suspension. Alongwith other points, he argued that on the basis of the evidence, offence under Section 326 is not made out.

5. With their assistance, I have read the provisions of the Section 320 of the Indian Penal Code. There are eight categories. They are as follows :-

- a) Category nos. 1 to 7 deals with specific nature of the injuries
(without the period of the hospitalization)
- b) Eighth injury is in two parts :-
 - (i) endangering the life

(ii) Hospitalization for twenty days or not following ordinary pursuits.

6. According to learned Advocate Mr. Patil, even if evidence of PW Nos. 1 and 7 read together, offence under Section 326 of the Indian Penal Code is not made out. If this is an issue the revision can be disposed of finally. He undertakes to file copies of the evidence.

7. Let both of them may point out the findings of both the Courts below on the point of the nature of the injury.

8. Matter be kept on **02/05/2024 for final disposal.**

[S. M. MODAK, J.]