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

CRIMINAL WRIT PETITION NO. 415 OF 2020

Dattatraya Rambhaji Raut

....PETITIONER

VERSUS

1. The State of Maharashtra,
through Police Station Incharge,
Police Station, Rahata,
Tq. Rahata, Dist. Ahmednagar

2. Anil Radhu Bangare
3. Maruti Radhu Bangare
4. Dadasaheb Baburao Bangare
5. Karbhari Vitthal Bangare
6. Radhu Hari Bangare
7. Amol Karbhari Bangare
8. Chima Vishnu Mehetre

....RESPONDENTS

.....

Mr Sanket N. Suryawanshi, Advocate for Petitioner
Mr D. B. Bhange, APP for Respondent No.1/State
Mr V. S. Undre, Advocate for Respondent Nos.2 to 7

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 29 SEPTEMBER 2025

P. C. :

1. By this petition under Article 227 of the Constitution of India, the petitioner is praying for quashing and setting aside the order dated 03/02/2020, passed by the learned Additional Sessions Judge-2, Kopergaon, Dist. Ahmednagar in Criminal Revision No.48/2019 thereby upholding the order dated 26/06/2019, passed by the learned Joint Civil Judge Junior Division, Rahata on Exhibit 44 and Exhibit 49

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in R.C.C. No.170/2010, thereby rejecting the said applications preferred by the petitioner and prosecution, respectively.

2. According to the petitioner, he is original complainant and respondent Nos.2 to 8 are accused. He had filed complaint bearing Crime No.36/2010 on 25/03/2010 with Rahata Police Station, Taluka Rahata, Dist. Ahmednagar for offences punishable under Sections 323, 324, 143, 147, 148, 504 and 506 of the Indian Penal Code against respondent Nos.2 to 8. After the investigation, the police had filed charge sheet against accused persons before the learned Judicial Magistrate First Class, Rahata in Regular Criminal Case.107/2010. According to the petitioner, the evidence of the petitioner was recorded before the learned Trial Court in which he had stated that respondent Nos.2 to 8 tried to kill him by weapons, such as iron rod and wooden sticks. Therefore, the petitioner filed application at Exhibit 44 on 24/11/2017 before the learned Judicial Magistrate First Class, Rahata for addition of Section 307 of the Indian Penal Code against respondent Nos.2 to 8, as according to him, respondent Nos.2 to 8 were intended to commit his murder.

3. The prosecution/State, vide Exhibit 49, preferred an application dated 09/03/2018 in R.C.C. No.170/2010 before the

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learned Judicial Magistrate First Class for addition of three accused persons, namely, Pappu Dadasaheb Bangare, Arun Dadasaheb Bangare and Balu Karbhari Bangare in the aforesaid crime. The petitioner had made ten accused in the first information report, however, the chargesheet was filed only against seven persons. According to petitioner, names of three accused are appeared in the FIR and also in his evidence. The involvement of the said accused persons in the instant crime has clearly brought on record by evidence, and therefore, the prosecution filed an application at Exhibit 49 to array these accused, namely, Pappu Dadasaheb Bangare, Arun Dadasaheb Bangare and Balu Karbhari Bangare as accused.

4. Learned Judicial Magistrate First Class, vide order dated 26/06/2019, after hearing both the parties, passed the common order thereby rejecting both the applications at Exhibit Nos.44 (for applying Section 307 of the Indian Penal Code against respondent Nos.2 to 8) and Exhibit 49 (for adding three more accused persons). Being aggrieved by the said order dated 26/09/2019, the petitioner preferred Criminal Revision No.48/2019 before the learned Additional Sessions Judge-2, Kopergaon. Learned Sessions Judge, vide impugned order dated 03/02/2020, dismissed the said revision by upholding the order

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passed by learned Judicial Magistrate. Hence, the petitioner has approached this Court by this petition.

5. According to the learned Advocate for the petitioner, the accused have assaulted the petitioner on vital part of his body and as such, there was intention to commit his murder. The newly named accused persons who were sought to be added, have been named in the FIR and also in the evidence of the petitioner. He submits that the order passed by both the Courts below are perverse and not according to the material produced before them. Accordingly, he prayed for quashing and setting aside both the orders.

6. The learned APP supports the case of the petitioner and states that the three accused persons which were sought to be added in the alleged crime were involved in the commission of crime, however, both the Courts below were not properly appreciated the evidence available on record. Thus, he prayed for setting aside the impugned orders and allowing applications at Exhibit 44 and Exhibit 49.

7. Per contra, learned Advocate for respondent Nos.2 to 7 vehemently opposed the petition and stated that the learned Courts below examined the material in proper perspective and after detail consideration, passed the orders, which are legally correct and proper.

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Therefore, according to him, no interference is required in the orders passed by the Courts below, and hence, he prayed for dismissal of the petition.

8. I have heard the learned Advocates for the respective parties and gone through the investigation papers as well as record available with the Court. Learned Sessions Court, while passing the judgment dated 03/02/2020 in revision No.48/2019 observed that perusal of the FIR and evidence of the petitioner disclose that sticks and iron rod have been used in the commission of crime. A stick and iron rod can be termed as deadly weapons depending on size and its nature if they cause death, but in the present case, informant is allegedly assaulted with sticks and iron rod and there are simple injuries on his body. Though there are only simple injuries on his body, two head injuries are shown to be grievous as per the medical certificate of the petitioner, but it does not understood that on what basis those injuries have been classified as grievous, as those are only contused lacerated wounds, and thus, such injuries do not qualifies as grievous within the meaning of Section 320 of the Indian Penal Code. Learned Sessions Court rightly observed that Section 307 of the Indian Penal Code requires that an act should be done with such intention or knowledge and in such circumstances that, if the person by that act

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caused death, he would be guilty of murder. Section itself makes it clear that act should be such that accused should have an intention or knowledge that said act may cause death. It is not necessary that hurt should necessarily be caused to attract Section 307 of the Indian Penal Code. The said section contemplates that act done should be such which is likely to cause death. Admittedly, such evidence is not being reflected on the basis of FIR or evidence of the petitioner before the Trial Court.

9. Secondly, so far as the application at Exhibit No.49 filed by the prosecution before the learned Trial Court for adding the newly named accused persons is concerned, the learned Sessions Court observed that FIR discloses names of said three accused persons, but the said FIR does not clear about role played by each of them in commission of alleged crime. Only omnibus allegations are made that the remaining accused persons beat the informant with kicks and fists blows. On the basis of omnibus allegations, it cannot be inferred that the said persons have played active role in commission of alleged offence. Even in the cross-examination, the petitioner clearly admitted that FIR does not mention in clear terms that said three persons beat him with kicks and fists blows and uttered vulgar words to him.

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10. It is also observed by the learned Sessions Court in its order that the record shows that three days after the alleged offence on 27/03/2010, detailed supplementary statement of petitioner came to be recorded which runs into three pages. In the said supplementary statement, names of newly added persons are absent. The petitioner was having every opportunity to give minute details of alleged offence in the said supplementary statement. Therefore, the names of three persons are absent even in the said supplementary statement, which prima facie shows that they are not involved in the alleged offence. Therefore, in absence of sufficient evidence about involvement of the said newly proposed accused in the given crime, to add them in the crime, will not be justified.

11. The record available before this Court supports the reasoning arrived at by the learned Courts below. Their orders are absolutely correct and proper, and as such, no interference is required by this Court. Hence, no ground for interference in the said order is made. The instant petition, therefore, fails and the same is accordingly rejected.

[SUSHIL M. GHODESWAR, J.]

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