



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 353 OF 2006

The State of Maharashtra,  
Through Police Station,  
Limbgaon, Dist. Nanded.

... Appellant

Versus

1. Ramrao Kishan Bhosale,  
Age : 42 years, Occu. : Agri.,
2. Shankerrao Kishan Bhosale,  
Age : 30 years, Occu. : Agri.,
3. Laxman Kishan Bhosale,  
Age : 35 years, Occu. : Agri.,
4. Kishan Bhujangrao Bhosale,  
Age : 70 years, Occu. : Agri.,

All R/o. Waghi

... Respondent.

.....  
Mr. N. D. Batule, APP for Appellant.  
Mr. G. D. Kale, Advocate for Respondents.  
.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 31 JULY 2025**

**PRONOUNCED ON : 14 AUGUST 2025**

**JUDGMENT :**

1. The impugned judgment and order of acquittal dated 17.10.2005 is questioned by State by which learned J.M.F.C. Nanded acquitted respondents from offence punishable under sections 324, 504, 506 read with section 34 of Indian Penal Code.

2. Present respondents were charge-sheeted on the premise that, on 01.01.2002, PW1 Satwaji was taking lunch at his own house at around 2:00 p.m. His grandson PW2 Kalidas came and informed him about scuffle going on in the field between accused persons and his son Baliram. When he rushed there and questioned accused, it is alleged that accused Rama gave stick blow on his head causing bleeding injury. He claims to have approached Limbgaon Police Station, which allegedly referred him to the hospital. After which he lodged report at Exh.20 resulting into registration of crime.

PW5 P.I. Mohd. Giyauddin carried out investigation and after gathering sufficient evidence, charge-sheeted accused and accused persons were made to face trial before learned Judicial Magistrate First Class, Nanded, wherein oral evidence of in all five witnesses on behalf of prosecution and documentary evidence were adduced. Defence also adduced one witness. After hearing arguments of both sides, learned trial Judge was pleased to reject the case of prosecution and acquit the accused.

### **SUBMISSIONS**

3. Learned APP criticizing the judgment and order and would submit that there was overwhelming and clinching evidence about occurrence. That, informant himself was an injured. He had seen accused persons scuffling with his son, and therefore, he has

questioned the accused. That, accused Rama assaulted him by means of stick causing him bleeding injury. Learned APP pointed out that, in support of injury, PW4 Dr. Uday Patil has been examined and injury certificate is also placed on record. He further pointed out that, there is another one child witness PW2 Kalidas, who also accompanying the complainant and he has supported the testimony of PW1 informant. Therefore, according to learned APP, there was cogent and convincing evidence regarding the occurrence. He pointed out that, there is civil dispute between the accused and complainant, who are adjoining neighbours with each other. That, evidence of PW1 informant and PW2 Kalidas has remained unshaken. That, there is also evidence of PW3 independent witness and thus according to learned APP, prosecution's evidence was liable to be accepted to hold the charges proved, but the learned trial court failed to correctly appreciate the same and erred in rejecting the case. Hence, he seeks interference.

4. Per contra, learned counsel for respondents would submit that, there is false implication. That, there was animosity due to civil dispute. That, there is no corroboration to the evidence of complainant. He pointed out that, injuries suffered is admitted by doctor to be possible due to fall. That, evidence of PW2 child witness has been rightly discarded by learned trial court in view of testimony

of DW1. He further pointed out that there were independent witnesses, none of them have been examined. As the essential ingredients of none of the sections under which the accused were charge-sheeted were available, learned counsel for respondent canvasses in support of the acquittal and urges dismissal of the appeal for want of merits.

### **EVIDENCE ON RECORD**

5. Re-appreciated and re-analyzed the evidence. As stated, prosecution evidence is comprises of 05 witnesses. PW1 Satwaji informant, who is examined at Exh.19; PW2 Kalidas, child witness, who is examined at Exh.26; PW3 Rameshwar, panch witness, who is examined at Exh.27; PW4 Dr. Uday Patil, medical expert, who is examined at Exh.29 and PW5 P.I. Mohd. Giyauddin is the Investigating Officer.

### **ANALYSIS**

6. Crucial evidence is only of informant PW1 Satwaji and PW2 Kalidas. PW1 informant in his testimony has narrated about getting news from his grandson PW2 Kalidas regarding scuffle going on between accused and his son Baliram and therefore, informant rushed to the spot and for questioning about the scuffle and beating, it is alleged that accused Rama hit a stick blow on the head of informant. PW2 Kalidas is also examined to lend support to the evidence of PW1 informant. He has also stated about being present at

the field with his mother and seeing scuffle running towards village to inform his grandfather and they both allegedly came. However, in defence DW1 Venkatrao is examined, who is school teacher and he has produced on record the attendance register. The extract of attendance register shows that on particular day PW2 was present in the school. Therefore, there is evidence suggesting PW2 Kalidas to be in the school rather than in the field. Surprisingly, injured Baliram with whom there was scuffle, does not seem to have examined, for the best reasons known to the prosecution. Even the persons, who allegedly indulged, are not examined. PW3 Rameshwar is the spot panch, but he has not supported the prosecution. Therefore, virtually there is no independent evidence supporting the case of PW1 informant.

7. Another undisputed aspect is that, in spite of occurrence taking place on 01.01.2002 and in spite of complainant attributing beating to other family members, they are also not examined. Even though he has claimed that other two family members were examined by Doctor, they have not accompanied him on the same day. As pointed out by learned counsel for respondents, though complainant claims to have approached police and police had further referred him to medical examination, medical expert has candidly admitted that PW1 has come on his own and there was no referral by

police. Doctor has admitted possibility of injury due to fall. Stick is not recovered.

8. Therefore, in the light of such evidence on record, learned trial Judge has refused to accept the case of prosecution as it is not proved beyond reasonable doubt, more particularly, when there is animosity, then caliber of evidence has to be on higher side. Bearing in mind the law settled by the Hon'ble Apex Court while dealing with appeal against acquittal, this court does not find any infirmity or illegality in the impugned Judgment. No case for interference being made out, I proceed to pass following order :

**ORDER**

The appeal stands dismissed.

**(ABHAY S. WAGHWASE, J.)**