



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

CRIMINAL APPEAL NO.485 OF 2019

Syryabhan S/o Kaduba Sable,

Age : 59 Years, Occ. Labour,

R/o. Diksha Nagar, Harsul,

Aurangabad.

..Appellant

(Original Complainant)

VERSUS

1. Ravindra S/o Laxman Paikwade,

2. Vijay Laxman Paikwade,

3. Machindra Trimbak Paikwade,

4. Arun Vishwanath Paikwade,

All Resident of Dikshabhumi Nagar,

Harsul, Aurangabad.

5. The State of Maharashtra .. Respondents

(No.1 to 4 Org. Accused)

Advocate for the appellant : Mr. V.P. Latange

A.P.P. for Respondent-State : Mr. V.M. Jaware

**CORAM : SANDIPKUMAR C. MORE AND
Y.G. KHOBRAGADE, JJ.**

Pronounced on: 17.11.2025

ORDER :

1. The appellant Suryabhan Kaduba Sable, who is the informant, has challenged the acquittal of the present respondents / original accused in Sessions Case No. 187 of

2018, from the offence punishable under Sections 436, 427 read with 34 of the Indian Penal Code at the hands of learned Additional Assistant Sessions Judge-3, Aurangabad (hereinafter referred to as “the learned Trial Judge”), under judgment and order dated, 07.02.2019 in the aforesaid case.

2. As per the prosecution case, the appellant/informant lodged report mentioning that on 14th December, 2014, at about 1:00 p.m. dispute occurred between himself and the accused over the parking of the water tanker on the road in front of his house. Thereafter, in the intervening night between 14.12.2014 and 15.12.2014 at about 2.00 a.m. the informant woke up after hearing the noise and saw front side of his house on fire. At that time, he saw all the respondents/ accused running away after throwing fire balls on his house. Accordingly, he lodged report against them in Begampura Police Station and crime No. I-202 of 2014 was registered against them for the aforesaid offence. The investigating officer PSI Kailas Pawar i.e. P.W.-5 conducted the investigation and filed charge sheet against the respondents. However, the learned Trial Judge, after conducting trial, acquitted all the respondents/ accused by observing that the evidence of PW-1 informant did not inspire confidence and the panch witness

i.e. P.W.-2 could not be found reliable as he had already left the place when the alleged spot *panchnama* was prepared.

3. Heard learned counsel for the appellant at admission stage. According to him, the prosecution has examined in all five witnesses and out of those witnesses, informant Suryabhan i.e. P.W.-1 has deposed as per the prosecution story which is well corroborated by PW-2 Anna Mokale, i.e. the spot panch. The evidence of P.W.-1 is also supported by P.W.-3 Babasaheb i.e. his son and P.W.-4 Mangal i.e. his daughter-in-law. Thus, he claimed that despite the evidence of P.W.-1 as an eye witness, the learned Trial Judge erroneously acquitted the respondents/ accused.

4. However, on going through the impugned judgment, it is apparent that P.W.-1 Suryabhan, though stated that he saw the respondents running away from the spot after setting his house on fire by throwing fire balls, but the learned Trial Judge has observed that the informant had not supported his own report by resiling from it in the open Court. His cross-examination suggests that he was notorious for his conduct of filing frequent complaints against the Court staff as well as Advocates. It is extremely important to note that just on the

earlier day, there was dispute between himself and the respondents/accused and there was also history of civil and criminal litigations between them. Under such circumstances, false implication of the respondents at the hands of P.W.1, cannot be ruled out.

5. Further, it is important to note that preparation of spot *panchnama* at the hands of Investigating Officer (PW-5) in presence of PW-2 panch also appears doubtful. It has come in the evidence of PW-2 that he left the spot at about 12.30 p.m. However, as per the spot *panchnama*, it reveals that it was signed at about 1.30 p.m. Moreover, the contents of spot *panchnama* (Exh. 40) are also contradictory to the version of P.W.1. Though P.W.1 stated that so many articles of his house were burnt, but the *panchnama* shows that nothing was burnt inside the house.

6. So far as the evidence of P.W.3 and P.W.4 is concerned, it is clearly evident that they did not see any of the respondents committing the incriminating act and their information is solely based on what is stated by the informant to them. They also admitted the earlier dispute between the respondents and P.W.1. The evidence of P.W.5 i.e. the

Investigating Officer is in respect of routine investigation, which is not helpful to connect the respondents incriminating act as alleged.

7. Considering the entire evidence on record and the gravity of charges levelled by PW-1, it appears that the informant must have falsely implicated the respondents on account of his previous enmity with them. It is rather dangerous to convict the respondents on the basis of uncorroborated evidence of P.W.1 against them, who appears highly interested witness.

8. The scope of appeal against the acquittal is too much limited and if it appears that the learned Trial Judge, after considering the entire evidence, has taken a possible view, then in the appeal, this Court cannot reverse the judgment merely on the ground that other view is also possible. As such, we find that the learned Trial Judge has rightly appreciated the evidence on record while acquitting all the respondents. In view of the same, the appeal stands dismissed.

(Y.G. KHOBRADE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE