



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 210 OF 2025

Paremshwar Umaji Khatikmare
Age: 38 years, Occu: Labour,
R/o Ambedkar Nagar, Partur,
Tq. Partur, Dist. Jalna.

... Applicant
(Orig. Claimant)

Versus

1. Mr. Ramnath Dashrath Sontakke,
Age: 36 years, Occu: Service,
R/o Mahadeo Mandir, Dhohar Galli,
Partur, Tq. Partur, Dist. Jalna
At present R/o Room no. 103,
Naw Kasturi Housing Society living Titol,
Kalyan (East), Tq. Kalyan, Dist. Thane.

Paryayi Address:
Prashaskiy Adhikari(Shala), F/Dakshin
Vibhag, Dr. Babasaheb Ambedkar Marg,
Vistarit Imarat, 4th floor,
Parel, Mumbai-400012.

2. State of Maharashtra,
Through officer In-charge,
Partur Police Station,
Tal. Partur Dist. Jalna.

... Respondents.

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Mr. A. M. Inamdar, Advocate for Applicant.
Mr. V. B. Giri, Advocate for Respondent No.1.
Mr. N. D. Raje, APP for Respondent No.2 – State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 17 NOVEMBER 2025

PRONOUNCED ON : 20 NOVEMBER 2025

JUDGMENT :

1. In this revision, there is challenge to the judgment and order dated 23.06.2023 passed by learned Additional Sessions Judge, Jalna in Criminal Appeal No.08 of 2022 arising out of judgment and order dated 06.05.2022 in R.C.C. No. 161 of 2018 tried for offence punishable under section 324 of Indian Penal Code (IPC).

2. Learned trial court was pleased to acquit the accused respondent, whereas, learned first appellate court was pleased to uphold the above order of acquittal, thereby dismissing the first appeal.

Feeling aggrieved by above both judgments and orders, original informant has preferred instant appeal.

3. It appears that, FIR was registered in consequence to order of section 156(3) of Cr.P.C. Informant PW2 Parmeshwar testified at Exh.18 that alleged incident is of 28.05.2018. While he was returning from court work, respondent Ramnath questioned him whether he is taking case registered against him back. On refusal, it is alleged that Ramnath inflicted 2-3 blows by means of blade on the chest of informant, and therefore, he gave statement in consequence to directions issued under section 156(3) of Cr.P.C.

While under cross he admitted that, accused is brother-in-law and that he has been residing separately from his wife since 5-6 years though he denied strained relations between him and his wife. He expressed ignorance as to whether his wife stayed with accused at Mumbai, but admitted that she had filed maintenance petition against him. He also admitted filing complaint against Police Constable Shukre for maintaining relations with his wife. Regarding incidence, he is cross examined in paragraph nos.3 and 4 and he has answered that incident took place at around 4:00 p.m. and incident lasted for 10-15 minutes. In paragraph no.5, he has denied knowing Vidhur Vishwanath Jaid as well as Gangadhar Mane. He answered that, at the time of incident, around 10 to 15 persons were gathered. Suggestions about he to be a driver and possibility of suffering injury while changing tyre has been denied.

4. PW4 Rafiq is also another crucial witness as he is examined by prosecution as an independent witness. His evidence is at Exh.21 and it is his testimony that on 28.05.2018 there was quarrel going on between informant and one person and said person inflicted blow with blade or something like that and the quarrel was resolved by his indulgence.

While under cross, he stated that he knew informant since 3-4 years. He admitted that, at the time of incident, other persons had

gathered, but he is unable to state on what count two persons were quarreled.

5. PW3 Gangadhar is panch to spot and PW5 Vidhur is panch to seizure of blade. PW1 Dr. Dipmala is the doctor and she has testified about examining PW2 informant and noticing cut injuries on the chest, and according to her, the same are possible by sharp weapon.

6. Here, before this court learned counsel for revisionist would submit that there is convincing, cogent and reliable evidence. Complainant's evidence finds support from independent eye witness account. There is recovery of blade. Treating doctor has also been examined, and therefore, according to him, prosecution had made out case for attracting charges under section 324 of IPC.

7. On the other hand, learned counsel for respondent has pointed out that, there is false implication. It is pointed out that, initially, in N.C. different story was narrated, but at the time of statement recorded in pursuance to section 156(3) Cr.P.C., totally different version has been narrated. That, though independent witness has been examined, said witness has merely mentioned about quarrel between PW2 and one person. Therefore, the said person was not known and as such, according

to him, investigating machinery ought to have conducted T.I. parade, but the same has not been done. He also pointed out that, recovery is unworthy of credence, because it is not under section 27 of Evidence Act and there is no disclosure of present accused.

8. As pointed out, on visiting contents of statement under section 156(3) and on comparing with evidence given in the court, apparently, there is no consistency. In report, he has stated that he and accused were alone, but in witness box he has deposed that there were several persons. In witness box, he has not stated that PW3 had indulged and separated the quarrel. Therefore, the FIR does not carry reference of PW3, he cannot be said to be an eye witness.

9. As pointed out, there is recovery and even prosecution has examined PW5 Vidhur. This witness has stated that, on 16.10.2018, he was called as panch to seizure of blade and panchanama was drawn. However, as pointed out said recovery is after inordinate delay of almost 2 months as occurrence is of 28.05.2018. Again as pointed out, testimony of PW5 does not show that recovery of the blade was at the instance of accused respondent. Further, this witness PW5 in cross has admitted that he knew PW2 since 7 to 8 years, but surprisingly PW2 in his cross denied knowing this witness also. Therefore, for above reasons, case of

prosecution comes under shadow of doubt. There is admittedly previous enmity. Accused happens to be brother-in-law of complainant and due to strained relations with PW2 his own wife was residing with accused which could be the cause of instance.

10. Both, learned trial court as well as first appellate court have disbelieved the prosecution's story and has acquitted accused. Therefore, both courts have given concurrent findings. Bearing in mind the settled principle that there is double presumption of innocence, the evidence of all above witnesses in a case of prosecution, can not be accepted. There being no merit in the revision application, I proceed to pass the following order :

ORDER

The criminal revision application stands dismissed.

(ABHAY S. WAGHWASE, J.)