



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

CRIMINAL APPEAL NO.760 OF 2025

Siddharth s/o Limbaji Wathore,
Age : 32 years, Occu.: Nil,
R/o.: Bhim Nagar, Parbhani,
Tq. & Dist. : Parbhani

.... APPELLANT
(Original Informant/
Victim)

VERSUS

1. The State of Maharashtra
2. Vashishta s/o Yashwant Waghmare,
Age : 45 years, Occu.: Labour,
3. Vishwajeet s/o Vashishta Waghmare,
Age : 23 years, Occu.: Labour,
4. Sujeet s/o Vashishta Waghmare,
Age : 20 years, Occu.: Labour

Nos.2 to 4 R/o.: Verma Nagar, Parbhani,
Tq. & District : Parbhani

.... RESPONDENTS
(Nos.2 to 4 are original
Accused)

....
Mr. Amol G. Vasmatkar, Advocate for the Appellant
Mr. P. S. Patil, APP for the Respondent No.1-State

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

DATED : 26/11/2025.

ORDER :

1. The appellant-informant has challenged the acquittal of respondent Nos. 2 to 4, who were the original accused in Sessions Case No.279 of 2019, for offences under Sections 307, 326, 323, and 504 read with Section 34 of the Indian Penal Code. The acquittal was recorded by the learned Sessions Judge, Parbhani (hereinafter referred to as 'the *learned Trial Judge*'), vide judgment and order dated 09.07.2025, in the aforesaid case.

2. According to the prosecution, the appellant-informant, vide FIR dated 12/12/2018, stated that he along with his brother Rahul was working for a political party known as the Bharatiya Republican Party (for short, *BHARIP*), whereas respondent No.3 Vishwajeet was working for the Bahujan Samaj Party (for short, *BSP*). He was insisting by Rahul to work for BSP by burring their dispute. On 09/12/2018, at about 7.15 p.m., respondent Vishwajeet called Rahul and asked him to come near the house of one Pravin Kamble at Verma Nagar for resolving the misunderstanding between them. Accordingly, the appellant-informant accompanied Rahul and at about 7.45 p.m., they reached the spot. Accused No.2 Vishwajeet, his brother Sujeet (accused No. 3) and their father Vashishta (accused No. 1) were

present. Sujeet was holding an iron rod, whereas Vashist was holding a *tommy*. All the respondents–accused started abusing Rahul and the appellant–informant. Sujeet then assaulted Rahul with the iron rod. When the informant tried to pacify the matter, respondent Vashishta assaulted him near his left ear with the tommy. After the informant fell down, he was beaten on his legs with the iron rod. The appellant–informant was taken to the hospital and on the basis of his statement dated 12/12/2018, the aforesaid crime was registered at Kotwali Police Station.

Upon completion of the investigation, the respondents–accused were charge-sheeted as stated above. However, the learned Trial Judge, after conducting the trial, acquitted all the respondents–accused of the aforesaid offences.

3. Heard the learned counsel for the appellant–informant at the admission stage and also perused the notes of evidence along with the impugned judgment.

4. The learned counsel for the appellant–informant vehemently argued that the learned Trial Judge ignored the evidence of the injured informant as well as that of his brother Rahul, who had actually witnessed the incident. According to him, despite the

recovery of the weapons used in the crime at the instance of accused No. 1, the learned Trial Judge erroneously discarded the same. He submitted that the learned Trial Judge ought to have convicted the respondents–accused.

5. On going through the material on record in the form of the notes of evidence and the impugned judgment, it appears that the prosecution case is based on the evidence of eyewitnesses as well as circumstantial evidence. The prosecution mainly relied upon the testimony of the appellant–informant (PW-2) and his brother Rahul (PW-3). Though these two witnesses deposed about the assault allegedly committed by the respondents–accused with the help of an iron rod and a *tommy*, but there are major contradictions in their versions regarding the roles of the accused and the weapons used. Informant PW-2 stated that accused No. 3, Sujeet, hit him on the head with an iron rod. However, PW-3 Rahul attributed this act not to Sujeet but to accused No.1, Vashishta, and that too by stating that the weapon used was actually a *tommy*. Further, PW-2 claimed that accused No. 1 hit him on his legs, whereas PW-3 deposed that it was not accused No.1 but accused No. 2 who inflicted injuries on the legs of the informant with the help of a rod.

These contradictions do not appear minor but it goes to the root of prosecution case making it impossible to believe. Thus, PW-2 and PW-3 have failed to give a true and consistent account of the acts allegedly committed by the respondents–accused during the assault.

6. On perusal of the evidence of PW-2, it is also important to note that he did not state in his police statement as to which of the respondents–accused had beaten him and in what manner. Whatever he deposed in court regarding the individual acts of the respondents–accused has come on record only by way of omissions. He further admitted that Rahul was never admitted to any hospital and that he himself had not provided any document to the police showing that he had been hospitalized for about six to seven months.

7. Furthermore, there is also delay in lodging the FIR. The learned counsel for the appellant–informant vehemently argued that the informant was immediately taken to the hospital after the incident and as he was admitted in Ashirwad Hospital, his statement could be recorded only on 12/12/2018. However, on going through the evidence of PW-2 and PW-3 on this aspect, it is

seen that there is no supporting material on record to show that PW-2 (the informant) was unconscious or unfit to give his statement during the period from his admission in the hospital up to the day on which his statement was actually recorded, i.e., 12/12/2018. PW-3 Rahul clearly admitted that though there was a police outpost inside the Civil Hospital, he did not lodge a report of the incident immediately on the day of the occurrence. He also did not approach the police while the informant was taking treatment in Ashirwad Hospital. PW-3 even admitted that the appellant-informant regained consciousness on 13/12/2018, whereas the prosecution claims that the FIR was recorded on 12/12/2018. This inconsistency further creates doubt on the prosecution version.

8. Though these two witnesses stated that two individuals, namely Nitesh Fulware and Deepak Sawant, had arrived at the scene and thereafter assisted in taking the informant to the hospital, but the prosecution failed to examine them. The record further shows that the spot of the incident was in a densely populated area, therefore, it is surprising that the Investigating Officer did not record the statements of any independent witnesses, making the prosecution case even more doubtful. Admittedly, there

was rivalry between the appellant and the respondents–accused, and in view of the contradictions in the evidence of PW-2 and PW-3, the possibility of false implication of the respondents–accused cannot be ruled out.

9. So far as the recovery of the weapons allegedly used in the crime is concerned, the prosecution relied on the testimony of the panch witness, PW-5. Though the prosecution claimed that the weapons, namely the iron rod and the *tommy*, were recovered pursuant to the disclosure statement made by accused No. 1, but this panch witness (PW-5) admitted in his cross-examination that the police had already brought the weapons to the police station. Such an admission renders the alleged recovery highly doubtful. The CA report also indicates that no blood was found either on the weapons or on the clothes of the respondents–accused. Blood stains were found only on the clothes of the informant, PW-2. Thus, even the scientific evidence does not support the prosecution case.

10. As such, the cumulative effect of the facts such as the inconsistencies in the evidence of PW-2 and PW-3, the delayed FIR, the lack of corroboration and the suspicious recovery leads us to

disbelieve the prosecution case. The prosecution has not established the guilt of the respondents – accused beyond reasonable doubt and therefore, the acquittal recorded by the learned Trial Judge is justified, as he has taken a possible view.

10. In view of the aforesaid discussion, we find no substance in the appeal and accordingly, it stands dismissed.

(Y. G. KHOBRAGADE, J.)

(SANDIPKUMAR C. MORE , J.)