



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 260 OF 2017

Sunil Bhila Chavan

Age: 43 years, Occu.: Service,
R/o Mandal, Tq. Amalner, Dist. Jalgaon
At Post Erando, Dist. Jalgaon

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. R.B. Ade, Advocate for the applicant
Ms V.S. Chaudhari, A.P.P. for the respondent - State
....

CORAM : ABHAY J. MANTRI, J.
DATE : 13th OCTOBER, 2025

ORAL JUDGMENT :

1. The applicant / accused no.1, being aggrieved by the judgment and order dated 16th September, 2017 passed by the learned Additional Sessions Judge, Amalner in Criminal Appeal No. 39 of 2015 whereby confirmed the sentence awarded by learned J.M.F.C., Amalner in R.C.C. No. 3 of 2011 vide judgment and order dated 14th October, 2015 convicting the applicant for the offence punishable under Section 323 of the Indian Penal Code (for short, '*I.P.C.*'). Instead of sentencing him for undergoing a substantive sentence, he was released under Section 4 of the Probation of Offenders Act, hence, this revision application.

Factual Matrix :-

2. On 03rd October, 2010, informant – Sindhubai had lodged a report at Marvad Police Station alleging that on that day at about 06:00 – 06:30 a.m., when she was passing from the house of the applicant for attending the nature's call, at that time the applicant had abused her on account of a previous quarrel. When she asked him as to why he was abusing her, the applicant gave a fist blow on her face, due to which she sustained bleeding injury. Therefore, she lodged the report. Accordingly, an offence was registered vide Crime No. 39 of 2010 for the offences punishable under Sections 325, 323, 504 and 506 read with Section 34 of the I.P.C. against the applicant and three others.
3. On the same day, the investigation was handed over to PSI Mr. Vasatkar, who visited the spot and carried out the spot panchanama. He recorded the statements of the witnesses, and after completing the investigation, he filed the charge sheet against the applicant and three others.
4. On 24th February, 2011, the J.M.F.C., Amalner framed the charge against the applicant and three others for offences punishable under Sections 325, 323, 504, and 506 read with Section 34 of the I.P.C., to which the accused pleaded not guilty and claimed to be tried.
5. In order to establish the guilt of the accused persons, the prosecution has examined as many as five witnesses and closed its evidence.

The accused were examined under Section 313 of the Code of Criminal Procedure (for short, '*Cr. P. C.*'), wherein the applicant–accused no.1 stated about the incident of 18th September, 2010 and 19th August, 2010. In support of their defence, the accused persons have examined two witnesses – DW 1 - Sanjay Dangar and DW 2 - Narsingh Wagh, and closed their evidence. After hearing both sides, learned J.M.F.C., Amalner, convicted the applicant for the offence punishable under Section 323 of the I.P.C. and acquitted the rest of the accused persons. Instead of sentencing, the applicant was released under section 4 of the Probation of Offenders Act, on his entering into a bond in the sum of Rs. 15,000/- on certain conditions. The applicant was also directed to deposit Rs. 1,000/- as compensation. However, the applicant was acquitted of the rest of the offences, and other accused persons were acquitted of the charges levelled against them.

6. Being aggrieved by the said order, the appellant has preferred the appeal before the Additional Sessions Judge, Amalner, who, after considering the material on record and submissions of learned counsel for the applicant and learned A.P.P, dismissed the appeal and confirmed the order passed by the learned Magistrate. Against the said judgment and order, the applicant prefers this revision application.

7. Heard learned counsel for the applicant and learned A.P.P for the State. Perused the impugned judgments and orders as well as the record.

8. The following points arise for consideration :-

- (I) Whether the prosecution proves that on 03.10.2010, at about 06:00 – 06:30 a.m., in front of the house of the applicant in the village of Mandal, the applicant had voluntarily caused hurt to the informant ?
- (II) Whether any interference is required in the impugned judgment and order in the revisional jurisdiction?
- (III) What order?

Points No. 1 to 3 :-

9. Learned counsel for the applicant vehemently contended that the incident occurred on 03rd October, 2010; however, till 13th October, 2010, neither the F.I.R. was registered nor the informant had given an explanation for the delay caused in lodging the F.I.R. He further canvassed that to give set back to the complaint lodged by the applicant against the informant, she had filed false complaint against him and others. The applicant examined two defence witnesses to support his defence. Prosecution failed to prove the spot panchanama. The defence witnesses categorically stated that the applicant was not present in the village on the day of the incident. Therefore, the prosecution failed to prove the charges levelled against him. Hence, he urged allowing the application.

10. On the other hand, learned A.P.P strenuously argued that the judgments and orders passed by the learned trial Court as well as the appellate Court are just and proper and no interference is required in them. She further argued that though the panch witnesses did not support the

prosecution, they had admitted that they were called by the investigation officer for the panchanama, and the investigation officer proved the same. Similarly, a plea of alibi was raised by learned counsel for the applicant before this Court. However, he has not given any suggestions to the informant or witnesses in that regard. Therefore, she submitted that no case is made out for interference in the revisional jurisdiction. Hence, she urged for the dismissal of the application.

11. Having heard learned counsel for both the parties and going through the evidence on record, at the outset, it appears that the informant - Sindhubai in her testimony has categorically deposed that on the day of the incident, when she was going to attend the nature's call, at that time the accused abused her and gave a fist blow on her face by which she sustained bleeding injury. Thereafter, she went to Amalner. Her testimony was neither denied nor challenged during her cross-examination; therefore, there is no reason to disbelieve the same. In paragraph 19 of the judgment, the learned appellate court dealt with the same. On that ground alone, the applicant is liable to be convicted.

12. It is pertinent to note that the informant proved the F.I.R. and its contents in *to-to*. Perused the F.I.R. In the F.I.R., the informant, Sindhubai, has categorically stated that when she asked the applicant as to why he was abusing her, at that time he gave a fist blow on her face, and therefore, she sustained bleeding injury. She proved the said contents in her testimony.

P.W.2 - Bapu also deposed that Sindhubai informed him on phone that in the morning at 06:00 a.m., a quarrel took place between her and the applicant / accused no.1. His testimony was also neither denied nor challenged by the accused persons, and therefore, there is no reason to discard the same to the extent that he has received a phone call of Sindhubai and she informed him about occurrence of the incident.

13. Though the panch witnesses, Umesh and Gulab, have not supported the prosecution's case to prove the spot panchanama, they have admitted that the police called them and obtained their signatures on the paper. They also admitted their signatures on the said panchanama.

14. PSI, PW 5, Mr. Vasatkar, the Investigation Officer, categorically deposed that he conducted the investigation after the case was handed over to him. Sufficient material was found against them; therefore, upon completing the investigation, he filed the charge sheet against the applicant and three others. He denied that he prepared a false spot panchanama and filed a false charge sheet against the applicant.

15. It is worth noting that the applicant / accused no.1 did not enter the witness box nor examine himself to support his defence. Similarly, he did not deny the testimony of the informant nor challenge during his statement under Section 313 of Cr. P. C. He examined Sanjay and Narsingh in support of his defence; however, they did not know about the occurrence of the incident, nor did they witness it. However, DW 1 – Sanjay, in his chief examination,

categorically stated that on the day of the incident, the applicant and accused no.2 were not in the village.

16. It is pertinent to note that DW 2 - Narsingh is the head constable, who, in his chief examination, categorically deposed that Superintendent of Police, Jalgaon, had directed him to conduct the enquiry about the incident dated 03rd October, 2010. Accordingly, he had been to the Mandal for an enquiry. He has recorded statements of the witnesses. He himself admitted that some incident had occurred on 03rd October, 2010.

17. I have personally gone through the evidence of the witnesses. The informant – PW 1 - Sindhubai, in her evidence, categorically deposed that on the day of the incident, the applicant / accused no.1 abused her and gave a fist blow to her face/mouth, and she had sustained a bleeding injury. Her testimony was neither denied nor challenged by the accused during her cross-examination, so there is no reason to disbelieve the same. Accordingly, the ingredients of Section 323 of the I.P.C. have been proved and learned that the trial Court and the appellate Court have rightly considered the same and convicted the applicant for the said offence and acquitted him of the rest of the offences. In paragraph 19 of the judgment, the appellate court dealt with the evidence of PW-1 Sindhubai and held that there is no hesitation in relying on her testimony. Similarly, paragraphs 20 to 22 dealt with the evidence of defence witnesses DW-1- Sanjay and DW-2-Narsingh and held that their evidence cannot be relied upon.

18. In view of the above, I do not find any illegality or perversity in the impugned judgments and orders to interfere in the revisional jurisdiction. On the contrary, the judgments and orders passed by the trial Court and the appellate Court are just and proper. Hence, no interference is required in them. Accordingly, I answer Point I in the affirmative and Point No.2 in the negative.

19. As a result, the revision application lacks merit and, therefore, stands dismissed. The impugned judgments and orders passed by the learned trial and appellate courts are confirmed. No order as to costs.

(ABHAY J. MANTRI, J.)

SSD