

*Esha***IN THE HIGH COURT OF BOMBAY AT GOA****CRIMINAL MISC. APPLICATION (MAIN) NO. 7 OF 2025**

STATE OF GOA, THROUGH THE
POLICE INSPECTOR, CANACONA
POLICE STATION

... APPLICANT

VS

GEORGE @ GAJA NAIK

... RESPONDENT

Mr. Pravin N. Faldessai, Additional Public Prosecutor for the
Applicant.

CORAM: SARANG V. KOTWAL J.

DATED: 7th NOVEMBER 2025

P.C:

1. This is an application for leave to file Appeal challenging the judgment and order dated 06.11.2023 passed by the Judicial Magistrate First Class, Canacona in Criminal Case No. 9/S/2020.

2. The Respondent-Accused was charged for commission of offences punishable under Sections 341, 324, 504, 506 (Part II), 427 read with Section 34 of the IPC. The learned Trial Judge at the conclusion of the trial acquitted the Respondent-Accused from all the charges. Hence, the present Application is filed by the State of Goa against the Respondent-Accused.

3. Heard the learned Additional Public Prosecutor Mr. Pravin Faldessai. It is submitted that the learned Judge erred in

acquitting the Accused as there is direct evidence of the injured Complainant who has described the incident and from the description of the incident given by the Complainant, it is quite clear that there was a common intention shared by the Respondent along with his son and an unknown third person. It is submitted that the unknown person was not found and the son of the Respondent-Accused was a minor and therefore, only the present Respondent faced the trial. He submitted that the observations of the learned Judge in acquitting the Respondent-Accused are not only erroneous, but are also perverse and therefore, this Court needs to interfere with the findings and needs to reverse the acquittal.

4. I have perused the judgment. The prosecution has examined six witnesses. The injured Complainant, Shri Amey Puranik was examined as PW-2. PW-3, Smt. Akshata Bhat is the sister of the Complainant. She was not an eyewitness, but she has deposed that after the incident, the Complainant had returned home and he had suffered a bleeding injury on his hand. PW-4, Shri Kalpesh Faldessai was an Assistant Motor Vehicle Inspector. He has deposed about the damage caused to the motorcycle. PW-5, Dr. Navjot Aldonkar was the medical officer who had examined the Complainant. PW-1, Shri Prabhav Phalgaonkar was a panch witness to the panchanama of the spot of the incident. PW-6, Shri Suresh Velip was the Investigating Officer.

5. The main important witness in this case is obviously the injured PW-2, Shri Amey Puranik, the Complainant. His version is reproduced by the learned Judge in paragraph 13. The complaint was lodged on 10.03.2019 at Canacona Police Station stating that at about 11:30 a.m. when the Complainant had reached Partagal, which was about 400 meters from his house, while he was traveling on his bike, he was stopped by the Respondent-Accused. One more person was accompanying the Respondent. He further deposed that the Respondent-Accused questioned him about the complaint made against the Accused regarding illegal construction. The Accused blamed the Complainant for such allegations of illegal constructions. The Complainant informed the Respondent-Accused that he had nothing to do with such allegations. He further deposed that the Accused abused him in filthy language. In the meantime, he saw the son of the Accused coming running towards him with a heavy wooden stick in one hand and Koita in his other hand. He deposed that the son of the Accused came in front of him and assaulted him with a wooden stick because of which he sustained injury on his left hand near the elbow. He further deposed that one more person came from somewhere else and pelted stones towards him and one stone actually hit the son of the Accused. PW-2 ran away and the unknown person threw more stones due to which he sustained injuries on his right elbow, back side, left leg behind the knee, the waist and below the right shoulder. In the meantime, his

motorbike was damaged by the son of the Accused. He went home and his sister took him to the Police Station and lodged a complaint.

6. The Medical Officer, PW-5, Dr. Navjot Aldonkar on examination noted multiple superficial abrasions over both the lower legs, left elbow joint, lower back, right over arm-medial abrasion. There was no deformity, no bleeding and loss of consciousness. PW-4, Shri Kalpesh Faldessai inspected the motorcycle and found that there were scratches and damage to the vehicle. PW-3, Akshata Bhat, the sister of the Complainant deposed about the Complainant reaching home with bleeding injury. PW-1, Shri Prabhav Phalgaonkar was a panch witness for the spot panchanama. PW-6, Suresh Velip has deposed about the investigation carried out by the investigating agency.

7. The learned Judge observed that the nature of abuses and the threat were not brought on record and therefore, the offence under Sections 504 and 506(Part II) of IPC was not proved. As far as Section 324 of IPC is concerned, the injuries were caused by the Respondent's son and the other unknown person and the Respondent-Accused had not caused any injuries. There was no cogent evidence that the offence under Sections 427/341 of IPC was committed by the Respondent-Accused.

8. The only question which requires consideration is whether the Respondent-Accused was sharing any common intention. From evidence of PW-2, it is clear that the Respondent-Accused was not travelling with his son when he stopped the Complainant. The son of the Respondent came separately and assaulted the Complainant. The Respondent himself had not done any act to cause any assault on the Complainant, though he had ample opportunity to do so. The other allegations are against the third unknown person who came from somewhere else and pelted stones towards the Complainant. There are no allegations that the Respondent-Accused had caused any damage to the bike of the Complainant. Therefore, the view taken by the learned Trial Judge in acquitting the Respondent-Accused is a clear possible view and therefore, I am not inclined to interfere with the reasoning and the conclusions recorded by the Trial Court in acquitting the Respondent-Accused. Therefore, the Appeal is dismissed.

SARANG V. KOTWAL, J.