AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.636 OF 2024
WITH
INTERIM APPLICATION NO.5224 OF 2024

Sanjay Manohar Shardul, and
Ramchandra Manohar Shardul … Applicants

V/s.

The State of Maharashtra … Respondent

ATUL GANESH KULKARNI
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Mr. Dhyanesh Patil WITH Ms. Metanshu Purandare and
Ms. Sakshi Salunkhe for the applicants.

Mr. C.D. Mali, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 1, 2025

P.C.:

1. The applicants have filed the present criminal revision application challenging the Judgment and Order passed by the learned Additional Sessions Judge in Criminal Appeal No.10 of 2014. By the said judgment, the appellate Court confirmed the conviction recorded in Regular Criminal Case No.2 of 2011 by the Judicial Magistrate First Class, Pimpalgaon Baswant on 5 February 2014.

2. The prosecution case, in brief, is that the informant, Mahesh Dinkar Pandav, resides with his family members, namely his mother Shashikalabai, brothers Manoj and Pravin, wife Mangala, and son Ayush at Ozar Township. On 13 March 2002, his mother Shashikalabai and his paternal aunt Tarabai entered into an

agreement with one Manohar Tukaram Shardul for purchase of 88-R land from Gat No.215 situated at village Akrale for consideration of Rs.2,09,000. At that time, Ramchandra Manohar Shardul (son of Manohar) and Bhaskar Sitaram Pandav were present, along with the informant, his mother, and paternal uncle Sonaji. An amount of Rs.1,00,000 was paid to Manohar and Ramchandra at the time of execution of the agreement to sale. It was agreed that the names of Manohar and others would be deleted from the record within three months before execution of the sale deed. However, Manohar demanded further amounts and the informant paid Rs.98,000 more from time to time. Despite this, the names of Manohar and others were not deleted, nor was the sale deed executed, which resulted in a dispute between the parties.

3. On 26 September 2010, Sanjay Manohar Shardul, resident of village Dikshi, called the informant and his family to Dikshi for completing the transaction. Accordingly, the informant, his mother Shashikalabai, and his brothers Manoj and Pravin went to the house of Prakash Shardul, cousin of Sanjay, at around 2.30 to 2.45 p.m. Sanjay, Ramchandra, Kailas (all sons of Manohar), wife and sister of Sanjay, and Prakash Shardul were present. Negotiations took place regarding the land transaction. At that time, the Shardul family demanded Rs.20 lakh as consideration for the land. The informant and his family expressed readiness to pay Rs.15,000 to Rs.20,000 more than the originally agreed price of Rs.2,09,000. Since no settlement was reached, Prakash Shardul suggested that both parties approach the Court.

4. After this, Shashikalabai, Manoj, and Pravin stepped out of the house. At that time, Ramchandra and wife of Sanjay started abusing them. When Shashikalabai objected, wife of Sanjay assaulted her with fist blows, due to which she fell down and her Mangalsutra was damaged. When the informant and his brothers tried to rescue their mother, Sanjay assaulted Pravin on the head with a sickle, Kailas assaulted the informant with the handle of a spade on his back and right hand, while Ramchandra attacked both Pravin and the informant with an iron rod. Thereafter, the accused threatened the informant and his family by saying, “tumhi jaminit kase yeta, tumhala marun taku” (how do you enter the land, we will kill you). When Manoj protested by saying that they had paid the money and would enter the land, Sanjay and Ramchandra slapped him. During the incident, the gold chain worn by Pravin was also damaged. The informant thereafter lodged the FIR.

5. Learned counsel for the applicants submitted that the conviction under Sections 323, 326, and 506(2) read with Section 34 of the Indian Penal Code is based on misappreciation of evidence. He argued that the findings regarding common intention and grievous hurt caused by sickle and iron rod are not supported by reliable evidence. The Chemical Analyser’s report was not produced. The weapons were seized after four days of the incident and the delay was not properly explained. He further submitted that in the facts of the case, the sickle cannot be treated as a deadly weapon so as to attract Section 325. He pointed out that the applicants have already undergone imprisonment for 13

months and 26 days. Therefore, even if the conviction is upheld, the period already undergone should be considered while deciding the sentence in this revision application.

6. On the other hand, the learned APP opposed the revision application. He submitted that the oral testimonies are duly supported by documentary evidence. The prosecution examined nine witnesses. The informant himself is an eye-witness and has clearly described the incident and the manner of assault with weapons. His testimony is supported by PW-2 and PW-4. The minor discrepancies do not affect the core of the prosecution case, particularly regarding the manner of assault. Both the Courts below have rightly relied on the evidence and imposed the sentence of rigorous imprisonment for three months each. He, therefore, prayed that the revision application be dismissed.

7. Having carefully considered the material placed on record, I find that the ingredients of the offence under Section 326 IPC stand established against the applicants. The testimony of PW-1, the informant, clearly describes the sequence of events. He has stated that he, along with his brothers and mother, had gone to the house of Prakash Shardul at village Dikshi for discussions regarding the sale transaction of land. As no settlement could be reached, they were about to leave when Sanjay Shardul, his wife, Ramchandra, and Kailas started abusing them. When his mother Shashikalabai objected, wife of Sanjay pushed her. As the informant and his brothers went to rescue their mother, Kailas assaulted them with the handle of a spade. Ramchandra brought an iron rod and Sanjay brought a sickle. Thereafter, all of them

assaulted the informant and his family members. Specifically, Kailas used the spade handle to beat Pravin, Ramchandra assaulted him with the iron rod, and Sanjay gave a blow of sickle on his head, which resulted in a bleeding injury. The injured Pravin was then taken to the police station and subsequently to the Government Hospital and, later, to Panchavati Hospital, Nashik. This sequence of events, coupled with the nature of injury, satisfies the requirement of grievous hurt caused by use of a dangerous weapon.

8. The testimony of PW-1 stands duly corroborated by PW-2, PW-3, and PW-4, who are also eye-witnesses to the occurrence. Their evidence is consistent, natural, and withstands the test of cross-examination. No material contradictions have been brought on record to discredit their version. Thus, the prosecution has successfully proved that the applicants were involved in the assault and that the injuries inflicted on Pravin were grievous in nature within the meaning of Section 326 IPC. Consequently, the conviction under Sections 323 and 326 IPC does not call for any interference.

9. Turning now to the question of sentence, the learned Advocate for the applicants submitted that the applicants are the sole earning members of their families. It was urged that they have no criminal antecedents and that the present incident did not arise from any premeditated design but occurred in the background of a property dispute of civil nature. This submission merits due consideration.

10. The record reveals that the applicants have already undergone imprisonment for a period of 13 months and 26 days. The Courts below had imposed a sentence of three months' rigorous imprisonment for each of the offences under Sections 323, 326, and 506(2) of the Indian Penal Code. In such circumstances, it is evident that the applicants have already undergone a period of incarceration much in excess of the substantive sentence imposed by the trial Court and confirmed in appeal.

11. The object of criminal law is not only to punish but also to reform. Where the applicants have already remained in custody for a period longer than the sentence imposed, continuation of imprisonment would serve no further purpose. The factors that they are first-time offenders, that there are no previous convictions against them, and that the incident arose out of a civil land dispute, weigh in favour of modifying the sentence.

12. Therefore, in the totality of facts and circumstances, it would meet the ends of justice if the sentence is reduced to the period already undergone by the applicants, without disturbing the finding of conviction.

13. On an overall assessment of the evidence and circumstances, I am of the view that while the conviction recorded by the Courts below is proper and needs to be maintained, the sentence requires modification. In my opinion, the ends of justice would be met if the sentence is reduced to the period already undergone.

14. Hence, the following order is passed:

a) The Judgment and Order dated 19 September 2024 passed in Criminal Appeal No.10 of 2014 is confirmed as regards conviction. However, the sentence is modified to the period already undergone by the applicants.

b) It is declared that the period of 13 months and 26 days already undergone by the applicants shall be treated as the sentence for the offences for which they stand convicted.

15. The criminal revision application is partly allowed in the above terms.

16. In view of this order, the interim application also stands disposed of.

(AMIT BORKAR, J.)