



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 680/2023

Mahant Jitdas s/o Bhagwandas Udasi,
Aged about 74 yrs., Occ. Nil,
R/o. Ward No.2, Katodi, Nagpur
441107.

...APPELLANT
(Ori. Complainant/Victim)

VERSUS

1. State of Maharashtra through
Police Station Officer, Police Station
Katol, Tah. Katol, Dist. Nagpur.
2. Vickky @ Vivek S/o Ramesh Gadekar, (Original accused)
Age 29 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
3. Mahesh S/o Keshavrao Lade,
Age 25 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
4. Swapnil S/o Vinayk Rao Supatkar,
Age 25 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
5. Devidas S/o Nathuji Nadekar,
Age 40 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
6. Ramdas S/o Maroti Tagde,
Age 47 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.

7. Nana @ Dnyaneshwar S/o Wasudeo Nikose,
Age 27 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
8. Bhushan S/o. Radhesham Lade,
Age 22 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
9. Sanjay S/o Shridharrao Thakre,
Age 49 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.
10. Ravi @ Ravindra Sadashivrao Kakde,
Age 43 yrs., Occ. Labour,
R/o. Yenva, Tah. Katol, Dist. Nagpur.

...RESPONDENTS

Mr. K. J. Topale, Advocate for appellant.
Mr. Bhagwan M. Lonare, APP for respondent No.1.
Mr. K. S. Narwade, Advocate for respondent Nos. 2 to 10.

CORAM : **M. M. NERLIKAR, J.**
DATE : **28.11.2025**

ORAL JUDGMENT :

Heard the learned counsel for the appellant, learned
APP for State and learned counsel appearing for
respondents/accused.

2. This appeal is directed against the judgment and order of acquittal dated 05.11.2022 passed by the learned Additional Sessions Judge-5, Nagpur in Sessions Trial No. 8/20, wherein the respondents/accused were acquitted. Against this judgment and order, the present appeal is preferred.

3. Brief facts:-

PW-5 Jitdas Bhagwandas Udasi - Informant lodged the First Information Report ('FIR') stating that he is the resident of Sati Ghat, Kankhal, Dist. Haridwar, Uttarakhand and presently, he is residing at Salai Village, Katol Savargaon Road, Ghubadmet. An incident occurred on 26.01.2013, where it is alleged that as the temple was in a dilapidated condition so for the renovation of the temple, the informant had brought cement, bricks, sand, gitti etc. Sagardas Udasi, Pujari – Narayanprasad Sharma and the informant performed worship and home-hawan at 03.30 p.m. and therefore, for the purpose of renovation the idol of Lord Krishna and Cow were removed and kept near the room of informant. After 06.30 p.m. all the accused persons came and they started beating the informant, Sagardas and Pujari with fist-blows and wooden sticks. All three persons suffered injuries and there was also damage to household

articles. On the basis of this information, the FIR was registered on 27.01.2013 by the Katol Police Station. After completion of investigation, charge-sheet was filed, charge was framed at Exh.4, the contents of charge were read over to the accused persons to which, they pleaded not guilty and claimed to be tried. The prosecution examined eight witnesses. After leading the evidence, the Trial Court has acquitted all the accused persons under Sections 147, 148, 326, 452, 427, 332 read with Section 149 of the Indian Penal Code due to insufficient material to prove the guilt of the accused persons.

4. I have heard the learned counsel appearing for appellant, learned APP for the State and learned counsel for respondents/accused. The learned counsel for the appellant submits that out of eight witnesses, five witnesses turned hostile, however the informant-PW-5 and another eye-witness PW-6 Sagardas Jeetdas Udasi/Mahant have supported the case of the prosecution. PW-8 Ranjit Vasanta Jadhav is an independent witness who had already supported the case of the prosecution in the Trial Court. He submits that the testimony of

eye-witnesses is sufficient to convict the accused persons. However, the Trial Court has observed that eye-witnesses i.e. PW-5 and PW-6 are interested witnesses, therefore declined to accept their evidence. He further submits that mere registration of counter FIR is not sufficient as the present FIR is an independent FIR which was registered on 27.01.2013. He submitted that grievous injuries were sustained by the informant and PW-6 due to assault by the accused persons and that there is sufficient evidence on record to convict the accused.

5. On the other hand, the learned counsel for respondents/accused submits that there was a FIR registered at the behest of the respondents/accused person vide Criminal RCC No. 179/2013 in respect of theft of idols by PW-5 and PW-6. The said FIR was registered promptly. He submits that the respondents registered FIR against PW-5 and PW-6, and therefore, in order to counter the FIR which was registered by the respondents/accused, the appellant also registered the FIR on 27.01.2013 belatedly. He further contended that no

explanation has been tendered so far as delay is concerned in registering the FIR. Further, in order to attract Section 326 of the Indian Penal Code, there is no material as witnesses have turned hostile and the evidence of two witnesses who have supported the case of the prosecution do not inspire confidence. Even if the evidence is taken as it is, the case would not fall under any of the provisions as mentioned in the charge-sheet. In-fact, it was also brought on record the political background of the parties, therefore out of political rivalry, the FIR was registered by the informant. He further submits that there is no evidence as to who has beaten whom, therefore the allegations are vague in nature and lastly he submits that there is no merit in the appeal.

6. I have gone through the evidence of all the witnesses. Admittedly, PW-1, PW-2, PW-3 and PW-4 did not support the case of the prosecution. Upon perusal of the evidence of PW-5 who is the informant, it goes to show that the incident took place on 26.01.2013. It was stated that for the purpose of renovation of the temple the of Lord Krishna and Cow were

removed and those were kept near the room of the informant, where he resides. PW-5 deposed that after 06.30 pm, all the accused persons came and they started beating him, Sagardas and Pujari by fist-blows and wooden sticks. So far as PW-6 is concerned, he deposed that all the accused persons came to the spot and started beating PW-5 and also to Pujari Narayan Prasad Sharma. They beat them with fist blows and wooden sticks. They also caused loss to the household articles i.e. T.V, fan and others items. In the cross-examination of both these witnesses, they have admitted that criminal case bearing RCC No. 179/2013 was registered against them which is pending in Katol Court.

7. So far as PW-8 Ranjit Vasanta Jadav is concerned, he was the Police Head Constable at the relevant time. He deposed that after receiving information, he reached the spot at Salai area. He saw near about seven to eight persons were household articles house as well as causing loss to vehicle. He tried to convince them to stop but, they paid no heed and one of those persons gave stick blow to PW-8. He further stated that Jitdas Mahant along with two Maharaj stole and brought one marble statute of god there. He deposed that one Gadekar gave stick blow to PW-8. Thereafter he was taken to

the hospital and he took medical treatment from Dr. Ghate. He identified those persons before the Court that Vivek Gadekar had given the stick blow on his hand. In the cross-examination, he admitted that he was unable to state the names of accused persons. He further admitted that Beet Jamadar is available for group of villages. In the cross-examination, the learned counsel has brought on record major omissions that did not find place in the statement recorded by the Police which is about seven to eight persons were breaking household articles and vehicle. He deposed that he has stated before the Police that accused did not listen to anybody. He stated that out of those persons, one person gave him stick blow. Jitdas Mahant along with two Maharaj brought statute of God.

8. From the evidence of three witnesses, it could be gathered that on 26.01.2013, a mob gathered with an allegation on the informant and others that they have stolen idols of Lord Krishna and Cow. It is necessary to mention at this juncture that admittedly, the FIR was registered on 27.01.2013, however, there is no whisper in the testimonies of all these witnesses that as to why there was delay of one day in lodging FIR. It could be further gathered that if at all nine persons have beaten these persons then naturally they could

have easily produced medical evidence to support their case, however there is no medical evidence on record. It could be gathered that the villagers i.e. respondents have registered an offence for theft of idols and the said offence was registered on 26.01.2013 as Crime No.20/2013. There is every possibility that in order to give counter to the said FIR, the present FIR was registered. The evidence of all these three witnesses does not disclose true picture in respect of the accused persons. There are vague statements stating that all the accused persons have beaten them. Had it been the case that all the accused persons have beaten them, they would not have been in a position to register the FIR on the next day. This fact itself falsify the case of the prosecution. Admittedly, informant and other witnesses are unable to state exactly who assaulted them and by which weapon.

9. For the reasons mentioned above, the informant failed to explain the delay in lodging FIR. In absence of medical evidence, the story put-forth by the prosecution cannot be believed and in view of omission on part of PW-8, the case of prosecution is under shadow of doubt, therefore I am not inclined to entertain this appeal as there is no sufficient evidence on record to convict the

respondents. Hence, the appeal is devoid of merits and accordingly dismissed.

(M. M. NERLIKAR , J.)

Gohane