



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

CRIMINAL REVISION APPLICATION NO.165 OF 2024

1. Shri Ambadas Tukaram Turankar,
Age 72 years, Occu: Cultivation,
2. Shri Raju S/o Ambadas Turankar,
Age 37 years, Occu: Cultivation,
Both R/o Mauza Wadgao,
Tah. Warora, Dist. Chandrapur. **APPELLANTS**

...V E R S U S...

The State of Maharashtra,
Through its Police Station Officer,
Police Station Warora,
Tah. Warora, Dist. Chandrapur. **RESPONDENT**

Mr. D. S. Lambat, Advocate for Appellants.
Mr. V. A. Thakare, APP for Respondent/State.

CORAM: **URMILA JOSHI PHALKE, J.**
DATE: **9th APRIL, 2025.**

ORAL JUDGMENT:

1. Heard.
2. **Admit.**
3. The appellant is assailing the judgment dated 05.05.2022 by the learned Judicial Magistrate First Class, Warora in Regular Criminal Case No.32/2014 whereby the appellant is convicted for the offence punishable under Section 323 read with

Section 34 of the IPC and sentenced to suffer rigorous imprisonment for one month for the offence punishable under Section 323 read with Section 34 of the IPC and the judgment and order of confirming the sentence passed in Regular Criminal Appeal No.08/2022 by the Additional Sessions Judge, Warora, District Chandrapur dated 03.10.2024.

4. As per the accusation on 30.06.2013 at about 11:00 a.m. the informant Vachchhabai was present in her courtyard. At that time the cattle of the accused persons came there and as she drove it, the appellant – accused Ambadas raised quarrel with her and assaulted her with stick on her hand thereby causing hurt to her. As her son Santosh came there, the accused Raju, who is the son of the accused Ambadas and the appellant no.2. here, abused and beat him by hand and fist blows. As the people gathered there, they left threatening to the informant and other prosecution witnesses.

5. After registration of the crime the investigation was completed and the charge-sheet was filed. In order to prove the offence alleged against the accused persons, prosecution examined 08 witnesses namely PW-1 Dr. Patel vide Exh.-24, PW-2 Vachchhala vide Exh.-30 informant, PW-3 Santosh vide Exh.-32, PW-4

Hanuman vide Exh.-33, PW-5 Nikesh vide Exh.-34, PW-6 Pravin vide Exh.-36, PW-7 Police Constable Derkar vide Exh.-40 and Investigating Officer PW-8 vide Exh.-44-A. After appreciation of the evidence the trial court has convicted the accused as aforestated and the appellate court has also confirmed the said sentence. Being aggrieved and dissatisfied with the same the present revision application is preferred by the appellants.

6. I have perused the material on record prosecution mainly placed reliance on the evidence of PW-1 Dr. Aruna Kanjibhai Patel, who has narrated that on 30.06.2013 she has examined Vachchala Ambadas Madavi and Santosh Ajabrao Madavi. On examination of Santosh Ajabrao Madavi she found injuries in the nature contusion, injury on left side scapula and age of the injury was 1 to 2 hours and nature of injury was simple. On examination of the informant Vchchala she found swelling and tenderness on left hand elbow joint. Age of injury was 1 – 2 hours. It was caused by hard and blunt object. Though cross-examination is carried out nothing incriminating is brought on record. During cross-examination PW-1 has admitted that patients name is Santosh and Vachchala were not brought to me by the concerned police station. She further admitted that such type of injury can be

caused if any person fall down on rough surface.

7. The evidence of PW-2 Vachchala Ajabrao Madavi and PW-3 Santosh Ajabrao Madavi is consistent as to the assault by the present appellants on her and her son Santosh. They both have stated that as the cattle's entered in the courtyard of their house and therefore, quarrel was started between them and the accused Raju assaulted Santosh by fist and kick blows and assaulted the informant by means of stick. Their cross-examination shows that the action was taken against them and they have encroached upon the government land. Offence is also registered against the informant, her husband and three children as they have encroached upon the government land. Some omissions and contradictions are also brought on record during their cross-examination. PW-4 and PW-5 have not supported the prosecution case. PW-6 is the formal witness who has also not supported the prosecution case. PW-7 is the Investigating Officer, who has narrated about the investigation carried out and PW-8 is also the Investigating Officer.

8. On perusal of the material on record and after going through the entire record the finding of the trial court which is confirmed by the appellate court which is concurrent and it reveals

from the evidence that during the quarrel the assault was made on the informant and her son Santosh. Thus, the involvement of the present appellants reveals from the evidence which is recorded before the trial court.

9. Learned counsel for the appellants submitted that the benefit of the probation of the offenders Act can be rendered to the present appellants as there are no criminal antecedents against the present appellants and subsequent to the incident also no criminal antecedents are reported against them. Therefore, the report of the Probation Officer of Chandrapur is called which is favourable to the present appellants. It is specifically mentioned that the informant and her family are also quarrelsome nature they have also encroached upon the government land and they are indulged in various illegal activities. As far as the appellants are concerned the report shows that no criminal antecedents are reported against them and subsequent to the incident also no criminal case is filed against them.

10. Considering that the appellants have no criminal antecedents and subsequent to the conviction also no criminal cases are filed against them. The opportunity to reform is to be granted to them.

11. While maintaining the conviction the sentence of imprisonment of one month deserves to be set aside and instead the appellants are to be released on probation. In view of that, I proceed to pass following order:

ORDER

- (i) Criminal Revision Application is partly allowed.
- (ii) The appellants shall enter into a bond to permanently reside within the territorial jurisdiction of the District Chandrapur and to furnish to the Probation Officer his phone number, detail address. The appellants shall further undertake not to involve himself in any criminal or otherwise illegal activities.

12. The revision application is allowed in the aforesaid terms.

13. The criminal revision application is disposed of.

(URMILA JOSHI PHALKE, J.)