



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

CRIMINAL REVISION APPLICATION NO. 215 OF 2024

APPLICANT

Shrikant s/o Dattu Mohurle,
Aged about 27 years, Occu: Homeguard,
R/o Village Pimpalgaon (Ma), Taluka
Warora, District Chandrapur.

-VERSUS-

RESPONDENT

The State of Maharashtra, through
Police Station Officer, Warora,
Tahsil Warora, District Chandrapur.

Mr. Sandeep Naresh Singh, counsel for applicant.
Mrs. Swati Kolhe, APP for non-applicant/State.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **19/03/2025**

ORAL JUDGMENT :

1. Heard.
2. The applicant is challenging the judgment and order dated 07/07/2023 passed by the Judicial Magistrate First Class, Warora, District Chandrapur, in regular Criminal Case 88/2017, whereby the applicant is convicted for the offence punishable

under Section 323 of the Indian Penal Code, 1860, and sentenced to suffer simple imprisonment for a period of six months and fine of Rs. 1000/- in default, simple imprisonment for one month.

3. Being aggrieved and dissatisfied with the same, the applicant preferred the Criminal Appeal bearing No. 22/2023 before the Additional Sessions Judge, Warora, District Chandrapur, which is dismissed, and the sentence imposed by the Judicial Magistrate First Class is confirmed.

4. The applicant has challenged the judgment and conviction and also prayed for the benefit of the Probation of the Probation of Offenders Act, and therefore, the report of the Probation Officer is called, which is received by this Court.

5. Learned counsel for the applicant submitted that, according to the prosecution's case, the informant, Prabhakar Wasudeo Kale, lodged a report on 15/05/2017. The report states that on 14/05/2017, at around 8:30 hours, while he was at his residence, one Rupesh Bothale approached him and informed him that the accused were assaulting his brother's sons, namely Akshay Baba Kale, near the pan stall of one Vikas Mohurle. So he went to the spot of the incident, at that time, he saw that Akash was lying

unconscious and bleeding. He, along with the other relatives, took Akshay to the Sub-District Hospital, Warora, when he was injured, as he sustained the injury on his right ear and above the ear on his head. As his condition was serious, he was referred to the Chandrapur Hospital. The informant lodged her report against the present applicant. On the basis of the said report, crime was registered vide crime No. 526/2017. During the course of the investigation, the investigating officer completed the formalities of preparing the spot pananama, collected the injury certificate, seized the muddemal stick from the accused, and after completion of the investigation, the charge-sheet was submitted.

6. The learned Magistrate has framed the charge against the accused vide Exhibit No. 11 for the offence punishable under Section 324 of the Indian Penal Code, 1860. In support of the prosecution, the prosecution has examined the injured Akshay Baburao Kale PW-2, who narrated that the incident occurred on 14/05/2017 at 8.00 p.m. at Village Pimpalgaon at the Veer Square near the pan stall with Vikas Dattuji Mohurle, has narrated the entire incident. Thereafter, the prosecution has examined PW-4 Prabhakar Wadudeo Kale, who corroborated the version of the

injured. PW. 1 Harishchandra Mahadeo Chide is also examined by Exhibit No. 17, he also witnessed said incident. He has also supported the prosecution case. PW-3 has acted as a pancha on the spot panchanama. Thus, from the evidence, it reveals that the involvement of the present applicant, who has assaulted the injured, is involved. The oral evidence is also further corroborated by the evidence of PW-9, Dr. Smita R. Kinnake, who has deposed that the injured person sustained the injury on his right ear, which was passed by a hard and blunt object. The second injury was a blunt trauma on the right side of the temporal bone. The nature of the injury was simple to grievous. It was caused by a hard and blunt object. PW-8 is the investigating officer. On the basis of the said evidence, the Judicial Magistrate First Class has convicted the present applicant as aforestated. The Additional Sessions Judge has also appreciated the evidence and held that the involvement of the present applicant is revealed from the evidence, which is recorded before the magistrate.

7. I have perused the material from the record and, considering the request of the applicant, the report of the Probation Officer was called, which was received; it shows that no

criminal antecedents are reported after the said incident. The Probation Officer has recommended the grant of probation. The incident occurred in the year 2017. The applicant has a family to support. Considering that the applicant has no antecedents, prior to the incident as well as after the incident. The alleged incident has taken place due to the sudden fight and sudden quarrel, and as no involvement of the present applicant is revealed in criminal activities, he is entitled to an opportunity to reform.

8. While upholding the conviction, the sentence of imprisonment and the payment of a fine are set aside, and applicant is deserved to be released on probation. In view of that, I proceed to pass the following order:

- a] The criminal application is **allowed**.
- b] It is further directed that the applicant shall remain under the supervision of the concerned Probation Officer for the next two years.
- c] The applicant shall furnish a bond to permanently reside within the territorial jurisdiction of the District Probation Officer, Chandrapur, and furnish to the Probation Officer his phone number and

permanent address.

- d] The applicant shall further undertake not to involve himself in any criminal or otherwise undesirable activities.

9. The revision application is allowed and disposed of in the aforesaid terms.

[URMILA JOSHI-PHALKE, J.]