2026:BHC-AUG:46384

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 694 OF 2016

. Namdeo s/o. Haribhau Kalbande
Age: 32 years, Occu.: Agriculture,
R/o. Domegaon, Tq.Ambad,
District Jalna. ….Appellant
(Orig. Accused No.3)

Versus

1. The State of Maharashtra

2. Shashikalabai Manikrao Ghule
Age: 51 yrs., Occu.: Agriculture,
R/o.Domegaon, Tq.Ambad,
District Jalna.

3. Sushilabai Dhondiram Takwale
Age: 42 years, Occu.: Labour,
R/o. Domegaon, Tq.Ambad,
District Jalna. …..Respondent

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Mr. Sudarshan J. Salunke, Advocate for Appellant.
Mr.V.V.Jahagirdar, APP for Respondent.
Mr.Sanjaykumar B.Bhosale, Advocate for Respondent Nos.2 & 3 (Absent).

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 01-10-2026
Pronounced on : 05-10-2026

JUDGMENT :

1. In this appeal, there is challenge to Judgment and order of conviction dated 25-10-2016 rendered by learned Judge, Special

Court, Jalna, in Special Case (Atr.) No.20 of 2014 recording guilt of appellant for offence under Section 323 of the Indian Penal Code (IPC).

2. Case of prosecution in trial Court was that, on 24-01-2014 she-goats of accused no.3 entered the Jowar crop of informant, which was objected, upon which, it is alleged that, accused no.3 hurled caste abuses, caught hold of the her hand. When informant raised shouts, her mother-in-law, sister-in-law came to her rescue, but accused no.3 hit them by means of stick. The above episode was reported to Police who registered Crime bearing No.15 of 2014 for offence under Sections 354A(i)(ii), 323, 504, 506 read with 34 of the IPC and under Section 3(1)(11) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

After completion of investigation, accused nos.1, 2 and 3 were duly chargesheeted for above offence and also tried by the learned Judge, Special Court, Jalna, who on appreciating evidence adduced by prosecution, convicted appellant/original accused No.3 alone only for offence under Section 323 of the IPC and acquitted accused Nos.1 and 2 from all the charges. Hence, the appeal by convict.

3. Learned counsel for appellant would point out that, there is

false application. According to him, prosecution has not proved charges beyond reasonable doubt. He would submit that, learned trial Court has already disbelieved allegations and charge of caste abuse, which was part of the same incident, however, same evidence is applied for upholding guilt for offence under Section 323 of the IPC. According to him, there is incorrect appreciation of evidence on record.

Learned counsel also submits that, in the alternative, considering date of conviction, the date of hearing of the appeal and as long period has been lapsed since Judgment and order of conviction looming large over the head of appellant, he urges to extend benefit of Section 4 of the Probation of Offenders Act as appellant has no criminal antecedent whatsoever.

4. Learned APP opposed above submissions and he supports and justifies the Judgment and order of conviction and prays to dismiss appeal for want of merits.

5. Perused the record. Admittedly, case of prosecution is rested on evidence of as many as eight witnesses. Crucial evidence is of informant **PW1** Usha Hiraman Ghule, her mother-in-law **PW2** Shashikalabai Manikrao Ghule, injured, her nephew **PW3** Ganesh

Dhondiram Takwale and **PW4** Dr.Padma Durgesh Parhe, Medical Expert.

On carefully analyzing evidence of informant **PW1** Usha at Exhibit 16, it appears that she has deposed about occurrence dated 24-01-2014 i.e. when she-goats of accused no.3 Namdeo entered their field and she claims to have asked him to remove the she-goats, upon which it is alleged that accused hurled abuses on her caste. She stated that, he also caught hold of her hand and therefore, she raised shouts attracting attention of her mother-in-law namely Shashikalabai and sister-in-law namely Sushila. She also deposed that, accused hit her mother-in-law on left hand and on the thigh and hand of sister-in -law and occurrence was reported to Police.

Nothing adverse has been brought in cross-examination of this witness.

6. **PW2** Shashikalabai, injured, deposed at Exhibit 18 that while she was in the house, hearing shouts of her daughter-in-law, she and her daughter Sushila went towards field of Jowar and there, it is saw that accused had caught hold of hand of informant. She deposed that, accused hit her by stick on her left shoulder and gave blow of the same on left knee of her daughter and they were taken to Government hospital at Ambad.

Even nothing damaging has brought in her cross-examination.

7. Likewise **PW3** Ganesh, a child witness at Exhibit 20 deposed that on 24-01-2014 at around 04:00 p.m., accused caught hold of hand of his aunt PW1 and when his grandmother and mother went to her rescue, he allegedly hit them with stick on shoulder and left leg respectively.

However, in **cross-examination** he answered that, on the date of incident, he was at the school upto 04:30 p.m and he reached home at 05:30 p.m. Therefore, his presence at the scene of occurrence is doubtful as incident had taken place at around 04:00 p.m.

8. Therefore, on appreciating evidence of PW1 informant and her mother-in-law PW2, they are found to be consistent on the point of accused hitting PW2 mother-in-law and her daughter Sushila with stick. Their evidence has remained intact.

Prosecution has adduced evidence of **PW4** D3.Padma Durgesh Parhe at Exhibit 23 and she narrated the numbers and nature of injuries noted by her. She also identified certificates issued by her.

Consequently, there is corroboration to testimony of PW1 informant and her mother-in-law PW2 from PW4 Medical Expert and as such, prosecution evidence comprises of essential ingredients for

attracting charge of Section 323 of the IPC and therefore, no fault can be found on the part of the learned trial Court in recording conviction of appellant for the said offence.

9. Learned counsel for the appellant has submitted that, almost ten years have been lapsed since the occurrence and benefit of the Probation of Offenders Act may be extended.

Considering the year of occurrence to be of 2014, trial to be concluded in 2016 and finally appeal being heard in 2026, and more particularly, taking into account the quantum of sentence of one month awarded by learned trial Court and also taking into account the fact that there are no criminal antecedents, this Court is inclined to extend benefits of the Probation of Offenders Act to the appellant. Accordingly, following order is passed :

ORDER

I. The Criminal Appeal is partly allowed.

II. The conviction awarded under Section 323 of the Indian Penal Code to the appellant Namdeo s/o. Haribhau Kalbande, in Special Case (Atr.) No.20 of 2014, by learned Judge, Special Court, Jalna, vide Judgment and order dated 25-10-2016, is hereby maintained.

HOWEVER

III. Instead of sentencing appellant to imprisonment, he is directed to be released on probation of good conduct by entering into a bond with one surety each to appear and receive the sentence when called upon during the period of one year.

IV. The bond for a period of one year shall be executed by him before the trial Court within a period of four weeks from today.

V. The Criminal Appeal is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]

SPT