



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 683 OF 2025

Himmat s/o Namdev Patil,

Age : 56 years, Occ : Agriculture,

R/o : Kusumba, Taluka and

Drstrict : Jalgaon APPELLANT

VERSUS

- 1] The State of Maharashtra
- 2] Sambhaji s/o Govinda Patil
Age : 41 years, Occ : Agri
R/o : Kusumba, Taluka and
District : Jalgaon
- 3] Vilas s/o Shantaram Sonwane
Age : 33 years, Occ : Rickshaw Driver,
R/o : Kusumba, Taluka and
District : ,Jalgaon
- 4] Pravin /o Shantaram Sonwane
Age : 27 years, Occ : Business
R/o : Kusumba, Tq. & Dist. Jalgaon
- 5] Kailas s/o Sitaram Sonwane
Age 36 years, Occ : Agriculture
R/o : Kusumba, Taluka and
District : Jalgaon.
- 6] Ravindra @ Bhurya Shantaram Sonwane
Age 28 years, Occ : Agri

R/o : Kusumba, Taluka and
District : Jalgaon.

7] Manohar @ Balu Pundalik Patil

Age : 30 years, Occ : Agri

R/o : Kusumba, Taluka and
District : Jalgaon.

8] Shantaram s/o Supdu Sonwane,

Age : 36 years, Occ : Agri

R/o : Kusumba, Taluka and
District : Jalgaon.

9] Raju s/o Shantaram Sonwane

Age 22 years, Occ : Agri

R/o : Kusumba, Taluka and
District : Jalgaon.

10] Yeshwant s/o Pundalik Patil

Age : 35 years, Occ : Agriculture,

R/o : Kusumba, Taluka and
District : Jalgaon.

11] Dattu s/o Sitaram Sonwane

Age : 25 years, Occ : Agri

R/o : Kusumba, Taluka and
District : Jalgaon

12] Kiran s/o Ajabsing Sonwane,

Age 35 years, Occ : Business

R/o : Kusumba, Taluka and
District : Jalgaon.

.... RESPONDENTS

(Respondent Nos.2 to 12 are Original
Accused No.1 to 4 & 7 to 13)

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Advocate for the Appellant : Mr. Amol N. Kakade

A.P.P. for Respondent/State : Mr. M. A. Aher

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**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : 13/01/2026
PRONOUNCED ON : 27/02/2026**

JUDGMENT (PER SANDIPKUMAR C. MORE, J.) :

1. The appellant, Himmat Namdeo Patil, who is the informant, has challenged the acquittal of the present respondent Nos.2 to 12, who are the original accused Nos.1 to 4 & 7 to 13 in Sessions Case No.9 of 2016 for the offences punishable under Sections 143, 147, 148, 307, 324, and 325 read with Section 149 of the Indian Penal Code, as recorded by the learned Sessions Judge, Julgaon (hereinafter referred to as the "learned Trial Judge"), vide judgment and order dated 10.07.2025 in the aforesaid case.

2. As per the prosecution case, on 14.02.2010 at about 9.00 p.m., Chandrakant Patil and Mayur Patil were returning home from Kusumba Bus Stand. At that time, the respondents/accused allegedly came there and on account of their defeat in the election, started assaulting them with sticks, an iron rod, an axe, and a sword. The present informant, Himmat, along with one Nilesh Shivraj Patil, tried to intervene; however, accused Sambhaji and the other

accused assaulted Chandrakant Patil on his head. Similarly, Nilesh was also assaulted on his head and sustained serious injuries. Thereafter, the informant Himmat, with the help of villagers namely Pintu Vitthal, Sandip Nawal, Sanjay Pundlik, etc., escorted his nephews Chandrakant, Mayur and Nilesh to the Civil Hospital, Jalgaon.

On the basis of the report of the incident lodged at the concerned police station, an offence was registered against all the respondents/accused vide C.R. No. 31 of 2010. Upon completion of the investigation, a charge sheet was filed against the respondents/accused for the aforesaid offences. However, they raised a defence of false implication, contending that the present case was a counterblast to the case filed by them against the informant and others.

3. The learned counsel for the appellant vehemently argued that the learned Trial Judge failed to appreciate the evidence in its proper perspective and ignored the testimony of the eye witnesses as well as the injured witnesses, despite there being consistency on material aspects. He pointed out that, though certain weapons were recovered at the instance of the accused, the learned Trial Judge declined to place reliance on the said recoveries. He further submitted that the accused cannot be given the benefit merely on account of a defective or faulty investigation. In support of his contentions, he placed reliance on the judgment of the Hon'ble Supreme Court in ***Dhanaj Singh alias Shera and others v. State of Punjab AIR 2004 SC 1920***.

4. With the able assistance of learned counsel for the

appellant as well as learned APP for respondent-State, we have gone through the evidence of witnesses as well as the impugned judgment.

5. Admittedly, in the present case there are eye witnesses as well as injured witnesses who have deposed before the Court regarding the alleged criminal acts of the respondents/accused. However, upon perusal of the impugned judgment, it is evident that the learned Trial Judge has acquitted the respondents/accused primarily on the ground that the ocular evidence was inconsistent with the medical evidence on record and that there were material discrepancies between the testimonies of the eye witnesses and the injured witnesses. Even the evidence of the approver, Shrawan Koli (PW-1), was not found to be reliable.

6. On examining the notes of evidence as well as the impugned judgment, it appears that there are material variances and contradictions in the testimonies of the informant, the injured eyewitnesses and the approver Shrawan Koli. Furthermore, the recovery of the weapons allegedly used in the commission of the offence was effected from open places accessible to all, thereby casting doubt on the prosecution's case.

7. The evidence of the approver, Shrawan Koli, is not corroborated by any independent witness. According to him, the place of occurrence was crowded. The auto-rickshaw by which Chandrakant (PW-5) and Mayur (PW-6) had arrived at the spot was present during the incident; however, the

prosecution failed to examine the said rickshaw driver. Further, there are several contradictions in the testimonies of the eyewitnesses. Injured witness Chandrakant has also made exaggerated and self-contradictory statements. Though he initially stated that he and his brother Mayur were proceeding towards their house from Kusumba Bus Stop, but he subsequently stated that the incident occurred at the bus stop itself.

8. On the other hand, injured Mayur (PW-6) stated that no one became unconscious during the incident, which appears to be contrary to the prosecution case. As per the prosecution, the informant did not sustain any injuries; however, according to the informant's version, all three injured persons were admitted to the Civil Hospital in an unconscious condition. Moreover, he did not utter a word about the admission of his brother Chandrakant to Shripad Hospital. The informant has also admitted that a report was lodged against him and others at the same MIDC Police Station alleging that they had assaulted accused Sambhaji and his brother Shivaji. Thus, it appears that there has been suppression of material facts on the part of the complainant.

9. As per the testimony of the approver, Shrawan Koli, the respondents/accused assaulted Chandrakant and Mayur with bamboo sticks, an iron rod, an axe and a sword. He specifically stated that accused No. 1, Sambhaji, assaulted PW-5 Chandrakant on his head with an axe; accused No. 3, Kiran, assaulted Chandrakant on his forehead with a sword; and accused No. 7, Ravindra, also assaulted Chandrakant on

his head with an axe. Though Chandrakant's evidence supports this version to some extent, but the testimony of the other injured eyewitness, PW-6 Mayur, indicates that accused No. 7 Ravindra assaulted Chandrakant with an axe, while the other accused assaulted him with sticks. Further, according to the third injured witness, Nilesh (PW-7), after Chandrakant was assaulted by accused No. 7 Ravindra, accused No. 1 Sambhaji and accused No. 13 Kiran assaulted Chandrakant with iron rods. Thus, there are material inconsistencies in the versions of these key witnesses regarding the specific weapons used and the manner in which the injured persons were assaulted by the accused.

10. It is further evident that the medical evidence on record does not fully corroborate the ocular version of the prosecution witnesses. Moreover, except for witness Nilesh, none of the injured witnesses has specifically stated which particular weapon was used to cause the respective injuries. It is significant to note that Dr. Rajesh Jain (PW-9), in his cross-examination, admitted that he issued the injury certificate (Exhibit-208) after a lapse of 12 years and 6 months. The prosecution has offered no explanation for such an inordinate delay. Further, according to Dr. Pankaj (PW-10), injured Chandrakant had sustained a C-shaped contused lacerated wound (CLW) on the occipital region. However, no curved weapon capable of causing such an injury was recovered from the accused. It is also pertinent to note that though the prosecution alleged that the complainant party was assaulted with a sword, but no such sword was recovered. In these circumstances, there appears to be a

clear inconsistency between the ocular evidence and the medical evidence on record.

11. As per the prosecution evidence, several persons had gathered at the spot of the incident; however, the prosecution failed to examine any independent witness. According to the prosecution case, persons namely Pintu Vitthal and Sandip Nawal had lifted the injured and admitted them to the Civil Hospital, yet they were not even cited as witnesses in the charge sheet. In view of these inconsistencies and omissions, it cannot be said that the prosecution has proved the guilt of the accused beyond reasonable doubt. The learned Trial Judge, after recording these discrepancies and deficiencies on record, proceeded to acquit the respondents/accused.

12. It is now settled that, if the acquittal is recorded by the learned Trial Judge, after considering the evidence on record, then it cannot be set-aside, merely because another view is possible. Therefore, considering the scope of appeal against acquittal, we do not find any reason to interfere with the impugned judgment. Accordingly, the appeal stands dismissed.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE