
(2015) 03 BOM CK 0385

In the Bombay High Court

Case No : Criminal Revision Application No. 341 of 2002

Eknathrao

APPELLANT

Vs

The State of Maharashtra and Others

RESPONDENT

Date of Decision : 18-03-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 325, 34

Citation : (2015) ALLMR(Cri) 3548

Hon'ble Judges : Sadhana S. Jadhav, J.

Bench : Single Bench

Advocate : D.R. Bhadekar, Advocate, for the Appellant; S.D. Kaldate, Addl. P.P. and M.A. Kulkarni, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sadhana S. Jadhav, J.—Heard Adv. Mr. D.R. Bhadekar appearing for the revision applicant and the learned APP Mr. S.D. Kaldate for respondent No. 1 - State. Nobody for other respondents. The applicant herein is the original complainant in Regular Criminal Case No. 51 of 1998. The learned Judicial Magistrate (F.C.), Degloor, vide judgment and order dated 30th September 2002, was pleased to acquit original accused Nos. 2 to 4 for the offence punishable under Section 325, read with Section 34 of the Indian Penal Code. The original accused No. 1 - Maroti S/o. Kashinath @ Kamaji Hingole was convicted for the offence punishable under Section 325 of the IPC and was sentenced to suffer imprisonment till rising of court and to pay fine of Rs. 1000/-, in default of payment of fine, to suffer simple imprisonment for one month. Being aggrieved by the said judgment and order, the original complainant had filed the present Revision Application. It is prayed in the Revision Application, that the Government i.e. respondent No. 1 be directed to file appeal against acquittal of accused Nos. 2, 3 and 4, and further file an appeal seeking enhancement of punishment and fine awarded to accused No. 1.

2. Such of the facts necessary for the decision of the present Revision Application

are as follows:

"On 22nd January 1998, Eknath S/o. Santuka Jadhav lodged a report at Degloor Police Station, alleging therein that his elder son Dnyaneshwar was studying in 10th standard at Hottal. One year prior to the incident, his marriage was settled with one Sangita d/o. Namdeo Kamaji Hongole. Eknath used to visit the said family intermittently. On 22nd January 1998, at about 4.00 p.m., Eknath had been to the house of Dnyaneshwar. At that time, wife of Eknath came from the field and informed that the accused No. 1 i.e. Maroti S/o. Kashinath @ Kamaji was grazing his cattle in cotton crop. That, Eknath had requested accused No. 1 not to release the cattle in the crop. Pandurang i.e. son of original accused No. 1 had rushed on the person of Eknath by holding stone in his hand. Accused No. 1 had also rushed towards the complainant with an axe. That, the original accused had hit the complainant with the handle of the axe. That, the complainant had sustained bleeding injury. Report was lodged at the Police Station on the basis of which Crime No. 9/98 was registered. The investigation was set in motion. Eknath was referred to the hospital. He had sustained fracture on his mandible and lower border. He had sustained blunt injury on the posterior of his neck, shoulder and left side of the chest. After completion of investigation, charge sheet was filed against the accused for offence punishable under Section 325, read with Section 34, of the Indian Penal Code. Charge was framed against the accused. The prosecution examined in all 11 witnesses to bring home the guilt of the accused."

3. Perused the record & proceedings.

4. This is a peculiar case where the complainant was examined as prosecution witness No. 10. He had resiled from his earlier statement. He was declared hostile by the prosecution and hence, there was nothing on record to substantiate the incriminating material against the present respondent Nos. 2 to 5. It is not known, as to what made the complainant to file present Revision Application challenging the acquittal recorded against the present respondent Nos. 2 to 5, especially when he had turned hostile at the time of trial. Evidence recorded by the prosecution does not substantiate the allegations levelled against respondent Nos. 2 to 5. The prosecution has failed to prove the guilt of the accused and hence, the learned Magistrate has rightly-recorded the acquittal in favour of the accused persons. The learned Magistrate has assigned sound and justifiable reasons for recording acquittal in favour of the accused. No interference is warranted in exercise of revisional jurisdiction of this Court. In the result, the Revision Application is dismissed. Rule is discharged. The Revision Application stands disposed of accordingly.