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REGISTERED ON 14-12-2015
DECIDED ON 21-08-2021
DURATION 05Y 08M 07D

**IN THE COURT OF THE 8th JUDICIAL MAGISTRATE F.C.
AT NANDED.**

(Presided over by Mudassar Nadeem)

REGULAR CRIMINAL CASE NO. 766/2015 Exh.No. 35

The State of Maharashtra,
Through the Police Station Officer,
Police Station Shivaji Nagar,
Taluka Nanded, Dist. Nanded. ... **Prosecution.**

V E R S U S

1. Surayakant Manoj Potdar,
Age 24 yrs. Occu: Labour,
R/o Vinayak Nagar, Nanded.

Linking Laws ... **Accused.**
"Link the Life with Law" All Judiciary Exam

**C H A R G E : U/Ss. 452,326, 323,336, 504 & 506 of
Indian Penal Code, 1860.**

Mr.Rajioddin : APP for Prosecution.
Mr.S.S.Nandgiri : Advocate for the accused.





J U D G M E N T

(Delivered on 21st August, 2021)

Accused is facing trial for offences punishable under sections 452, 326, 323, 336, 504 & 506 of the Indian Penal Code, 1860 (hereinafter referred as I.P.C for short).

2. Summarized prosecution's case is as under :-

The informant Laxman Ganpatrao Kanjole and the accused resides in the same locality. The informant have one son Aditya and two daughters namely Sneha and Shewta. The accused used to quarrels with the informant and his daughter Sneha. On 15/10/2015 at about 9:00 p.m. informant's daughter Sneha went to see devi near her house. The accused came in the house of the informant and abused him by saying why he sent the Sneha on the road. The accused assaulted the informant and his wife by means of fist blow. Mean while the Sneha came in the house. The accused took a brick and assaulted the Sneha on her mouth and dislocated her 7 to 8 teethes. Due to the assault Sneha sustained bleeding injury. The accused was taken out of the house by the informant. The crowd in the vicinity was gathered therefore the accused fled. The accused also threatened to fracture legs and hands of the informant as well as threatened to cause his death.





3. The informant lodged the report of above incident at Police Station Shivaji Nagar. On the basis of above information of the informant, police station Shivaji Nagar, Nanded registered a first information report on 16.10.2015 and the offence punishable under section 452,326, 323,336, 504 & 506 of the I.P.C vide crime No.168 /2015 is registered against the accused. The investigation was entrusted to D.A. Kashid. I.O. visited the spot and prepared the spot panchnama. I.O. recovered one peace of brick from the spot of incident, he recovered one purple colour top (kurtha) and one white colour lower (Salver) and one scraf (odani) which was produced by the informant. I.O. has recovered one white shirt and black pant from the accused. I.O. recorded the statement of informant, injured and the other witnesses. I.O. collected MLC of the injured. After completion of investigation charge sheet is filed against the accused for the offence punishable under sections 452,326, 323,336, 504 & 506 of the IPC.

4. My ld. predecessor framed charge against the accused for offences punishable u/s. 452,326, 323,336, 504 & 506 IPC at Exh.14. The contents of charge were read over and explained to accused in vernacular, he did not plead guilty and claimed to be tried. His plea is recorded separately.





5. To substantiate the charge prosecution has examined following witnesses.

PW	NAME OF THE WITNESSES	AS A	EXHIBIT
1.	Hirman Dattatray Gore	Panch Witness	16
2.	Iswar Mahadeorao Medalpawar	Police Constable	19
3.	Milind Shankarrao Gajbhare	Panch witness	24
4.	Laxman Ganpatrao Khanjole	Informant	27
5.	Anita Laxman Khanjole	eye witness	30
6.	Sneha Laxman Khanjole	injured and eye witness	31

During trial prosecution has proved.

FOLLOWING DOCUMENTS

Sr.No.	DOCUMENTS	EXHIBIT
1.	Spot panchnama	25
2.	Seizure Panchnama	26 and 32
3.	Police report	28
4.	F.I.R.	29
5.	MLC report	33

6. Statement of the accused is recorded u/s 313 (1)(b) of Cr.P.C at Exh 34. The accused has not examined himself nor led any evidence in support of defense. Defense of the accused which can be gathered from the record, is of total denial. I heard ld APP for the prosecution and ld defense counsel for accused.





7. Considering oral as well as the documentary evidence available on the record. Following points arise for my determination to which I record my findings against each of them for the reasons stated below.

<u>POINTS</u>	<u>FINDINGS</u>
1) Whether the prosecution proves that, the accused by entering into the house of informant, which is used as a human dwelling having made preparation for causing hurt to informant and others and committed house trespass and committed an offence punishable u/s 452 of the Indian Penal Code?	In Negative
2) Whether the prosecution proves that, the accused voluntarily caused grievous hurt to informant's daughter Sneha by means of brick and dislocated her teeth and committed an offence punishable u/Section 326 of the Indian Penal Code?	In Negative
3) Whether the prosecution proves that, the accused voluntarily caused hurt to the informant, his wife and daughter by means of fist blows and committed an offence punishable u/s 323 the Indian Penal Code?	In Negative
4) Whether the prosecution proves that, the accused caused hurt to the informant by pelting pieces of bricks so rashly or negligently as to endanger human life or personal safety of others and committed an offence punishable u/s 336 of the Indian Penal Code?	In Negative





<u>POINTS</u>	<u>FINDINGS</u>
5) Whether the prosecution proves that, the accused insulted and gave abuses to the informant intended to give him a provocation to break the public peace and committed an offence under section 504 of the Indian Penal Code?	In Negative
6) Whether the prosecution proves that, the accused threatened the informant to cause her death and thereby committed an offence punishable u/s 506 of the Indian Penal Code?	In Negative
7) What order?	Accused is acquitted

REASONS
AS TO POINT NOS. 1 to 6 :

8. In order to avoid the repetitions as well as considering all the above points inter linked with each other. I prefer to discuss all the points together.

9. In the present case the allegations against the accused are in respect of commission of offence of voluntarily causing grievous hurt by means of brick and voluntarily causing hurt by means of fist blow by entering into the house of informant with criminal intent to cause hurt, by giving criminal intimidation and threatening the informant to cause his death as well as doing rash and negligent act by throwing the brick as to cause endanger to the human life and others.





10. The prosecution has examined the informant Laxman (PW-4) at Exh. 27. He deposed that incident is of the year 2015. On the day of the incident her daughters Sneha and Shewta were went to see dandiya program. He further deposed while they were returning to the home the boys pelted stone on them. He categorically stated that he do not know who pelted stone at her daughters. The informant admitted his signature over the report Exh. 28 as well as F.I.R. at Exh. 29 but he showed his lack of knowledge regarding the contents of the report as well as the F.I.R.. On the above evidence of the informant it appears that he is silent and mum on the material particulars of the offence as well as the incident as alleged by the prosecution. Though the informant was cross-examined by the prosecution but nothing fruitful in favour of the prosecution is brought on record.

11. The prosecution has also examined Sneha who is the injured and eye witness as PW no. -6. She deposed that the boys assaulted her by pelting stone but she do not know who pelted the stone. PW no. 6 has denied that the accused abused her or he throw stone upon her. This was a star witness of prosecution being injured and the eye witness but for the mis fortune of the prosecution she turned hostile. Instead of her cross-examination by the prosecution nothing is brought on record to support the prosecutions case.





12. The prosecution has examined Anita Laxman Khanjole an eye witness and injured as PW no. 5 at Exh. 30. PW no. 5 did not support the prosecution. She did not depose anything in favour of the prosecution. Apparently it appears that the informant, the injured and the eye witnesses of the prosecutions case did not support the prosecution. Therefore, the substantial evidence as to the allegations and the charge leveled against the accused is lacking in the evidence of material prosecution witnesses.

13. The prosecution has examined Hiran PW no. 1 as a panch witness and also examined Milind PW no. 3 as a panch witness. During the trial the defense has admitted the spot panchnama Exh. 25, seizer panchnama at Exh. 26 and 32, defense has also admitted the injury certificate at Exh. 33. Therefore, prosecution has proved the above documentary evidence but they are corroborative evidence and as discussed above in absence of substantial evidence above stated corroborative evidence is not helpful for the prosecution to bring home the guilt of the accused.

14. The only witness who has supported the prosecution is Kishor Madhavrao Medalpawar PW no. 2 who is examined at Exh. 19. PW no. 2 is the Police Head Constable who has taken the report of the informant at the police station and registered an offence against the accused.





PW no. 2 deposed that on 16/10/2015 he was on the duty at Police Station Shivaji Nagar as a P.S.O. . He further deposed that he has written the report as per the information given by the informant and he identified the signature of informant over the report Exh. 20. The evidence of PW no. 2 reveals that the F.I.R. was lodged on behalf of the informant. But the informant in the present case himself did not support the prosecution and denied the contents of the report and the F.I.R. accepted his signature. In absence of the evidence of the informant as to the contents of the report the only evidence of the PW no. 2 as to the contents of the report is not sufficient to bring home the guilt of the accused.

15. Upon careful evaluation of the evidence of the prosecution witnesses reveals that the evidence of the star witnesses i.e. informant, the injured and the eye witnesses are silent as to the material particulars of offence as well as the ingredients of the offences charged against the accused. There is no whisper of evidence that the accused entered in the house of informant. There is no evidence that the accused assaulted the informant, his wife or his daughters by means of fist and blows as well as by means of brick. Similarly there is nothing in the substantial evidence of the star witnesses that the accused did any rash and negligent act as to endanger to human life. There is no whisper of evidence as to the allegations that the accused





gave any provocation or he threatened to cause death of the informant.

16. Apart from the above, in the present case there is the availability of independent witnesses on the spot of incident. None of the independent witnesses is examined by the prosecution. Even the Investigation Officer is not examined. Therefore, the above circumstances also appears to be fatal to the prosecution.

17. Upon considering entire evidence on record and careful evaluation of the evidence of all the prosecution witnesses it appears that the sterling evidence as to prove the offence leveled against the accused is lacking in the present case. Consequently, the prosecution failed to prove the offences against the accused. Accordingly I answer point no. 1 to 6 in negative.

AS TO POINT NO .7

18. In absence of sterling evidence to prove offences charged against accused , I hold that the prosecution has failed to prove offences punishable under sections 452,326, 323,336, 504 & 506 of IPC as the informant, injured and the eye witness did not support the prosecution. Resultantly, the accused is liable to be acquitted. Hence, the following order.





ORDER

1)	Accused is hereby acquitted from the offences punishable under sections 452,326, 323,336, 504 & 506 of Indian Penal Code vide section 248(1) of the Cr.P.C.
2)	Bail bonds of the accused shall stands canceled.
3)	The seized brick, cloths and teethes being worthless be destroyed after appeal period is over.
4)	Accused shall execute a bond of Rs.7,000/- with one surety in the like amount as per the provisions of section 437 (A) of Cr.P.C.

Dictated and pronounced in open court.

Date :- 21-08-2021

Place :- Nanded

(Mudassar Nadeem)

8th Judicial Magistrate, F.C.,
Nanded.

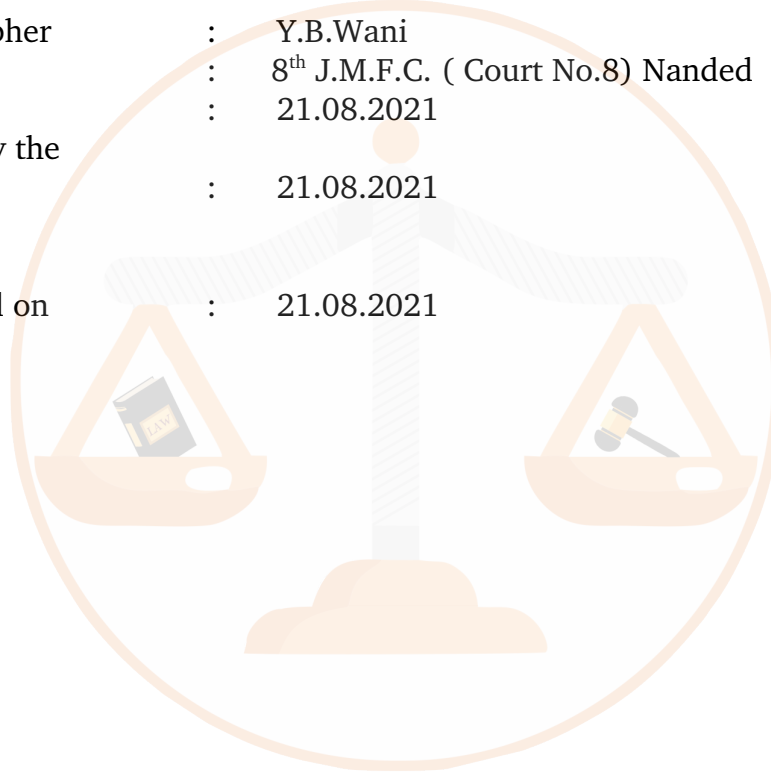




C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment is same word to word, as per the original Judgment.

Name of Stenographer : Y.B.Wani
Court : 8th J.M.F.C. (Court No.8) Nanded
Date : 21.08.2021
Judgment signed by the Presiding Officer : 21.08.2021
Judgment uploaded on : 21.08.2021



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