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**IN THE COURT OF JUDICIAL MAGISTRATE FIRST
CLASS AT WARORA, DIST. CHANDRAPUR**

(Presided Over by Prathamesh N. Rokade)

Regular Criminal Case No. 245/2022
CNR No. MHCH160017622015

Exh.- 29

State of Maharashtra
through P.S.O.,
Police Station, Warora
Tal. Warora, Dist. Chandrapur.

.....Prosecution

-Versus-

- 1] Mr. Pravin Bhayyaji Kinnake,**
Age- 32, Occupation- Service,
- 2] Mrs. Shakuntala Bhayyaji Kinnake,**
Age- 60, Occupation- household,
Both R/o. Khapari,
Tq. Warora, Dist. Chandrapur.

.....Accused persons

OFFENCES PUNISHABLE UNDER SECTION 326, 504 & 506
R/W SEC. 34 OF THE INDIAN PENAL CODE, 1860.

Appearance :-

Learned APP Miss. V. G. Kakade
Learned Adv. Mr. V. S. Kutarmare for accused persons.

J U D G M E N T

(Delivered on 12/01/2023)

The accused persons before the court are facing a trial for the offences punishable under section 326, 504 and 506, r.w. 34 of the Indian Penal Code 1860.

2. The factual matrix of prosecution case are as under :-

The informant i.e. Mrs. Kajal Pravin Kinnake is the wife of accused No.1. On 23/07/2022, at about 11.00 a.m., the accused No.1 has started dispute with the informant on the ground that she did served him lunch. Then he beat her on her hand and back by means of Plastic Stool. She sustained fracture on her left hand. She got treatment from Dr. Chandak Hospital, Warora. The accused persons also threatened her. Due to that informant gave first information report against the accused persons at Warora Police Station.

3. On the basis of information given by her, Crime No. 451/2022 was registered against the accused persons at Warora Police Station. Police Constable Mr. Bandu Choudhari investigated into the said crime. During the course of investigation he recorded the statement of witnesses. He prepared spot panchanama in presence of two witnesses. He also seized one Plastic Stool which was used in the commission of said crime and prepared panchanama to that

effect. Thereafter he collected the necessary medical certificates from the concerned hospital. During the course of investigation he came to the conclusion that accused persons have committed said offence. At last he filed a police report into the Court through the officer-in-charge of concerned police station and the accused persons were set up for the trial.

4. I have framed the charge against accused persons at Exh.19 for the offences punishable under Section 326, 504 and 506 r.w. 34 of the Indian Penal Code 1860. Its contents were read over and explained to accused persons in vernacular. They pleaded not guilty and claimed to be tried.

5. In order to substantiate the charge against accused persons, the prosecution has examined only one witness. The prosecution has examined Mrs. Kajal Pravin Kinnake as P.W. 1 at Exh.23 who is an informant and injured in the said incident. She did not support to the case of the prosecution. Thereafter, the accused persons have admitted the spot panchanama at Exh.25, seizure panchanama at Exh.26 and, the Medical Certificate is at Exh.27 and 28 respectively. Before that the informant filed a pursis at Exh.22. In the said pursis it is stated that she does not want to proceed further in this matter as the matter is mutually settled between them. Considering this fact, I closed the evidence of prosecution by

passing a detailed order below Exh.1 on 07/01/2023.

6. I perused the entire evidence of the prosecution. No incriminating circumstances brought on record through their evidence. Hence, I dispense with the statement of the accused persons which is recorded as per Section 313 of the Code of Criminal Procedure.

7. Considering the police report, documents produced along with it following points arose for my consideration and I have recorded my findings against each of them with reasons stated below it.

Sr. No.	POINTS	FINDINGS
1.	Whether the prosecution proves that accused persons in furtherance of their common intention voluntarily caused grievous hurt to the informant by means of Plastic Stool and thereby committed an offence punishable under section 326 r.w.34 of Indian Penal Code?	No.
2.	Whether the prosecution proves that accused persons in furtherance of their common intention intentionally insulted informant by abusing her and thereby gave provocation to them knowingly it to be likely that such provocation would cause to her to break the public peace and thereby committed	No.

	an offence punishable under section 504 r.w. 34 of Indian Penal code ?	
3.	Whether the prosecution proves that accused persons in furtherance of their common intention committed criminal intimidation by threatening the informant injury to her and thereby committed an offence punishable under section 506 r.w. 34 of Indian Penal code ?	No.
4.	What Order?	The accused persons are acquitted.

REASONS

AS TO POINT NO. 1 TO 4 :-

8. All these points are interlinked with each other. Hence for the purpose of brevity they are discussed under same head.

9. It is the case of the prosecution that accused persons in furtherance of their common intention cause grievous hurt to the informant by means of Plastic Stool. They also insulted and threatened the informant. The prosecution has examined informant in this case as P.W.1. She did not support to the case of the prosecution. She denied the fact that accused persons caused grievous hurt to her by means of dangerous weapon. Due to that the contents of first information report are not proved.

10. As per the story of prosecution P.W.1 is an eye witnesses and injured of said incident. But she also did not support to the case of the prosecution. She has denied the fact that accused persons caused grievous hurt to her by means of Plastic Stool. Due to the learned APP has asked leading questions to her. Then also she has denied the fact that accused persons committed said crime.

11. Section 319 - Hurt -

Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 321 - Voluntarily causing hurt-

Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “ Voluntarily to cause hurt”

12. Section 503 of Indian Penal Code.

Criminal intimidation -

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any

act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

13. The accused persons have admitted the spot panchnama, seizure panchanama and medical certificates. But it is not sufficient on the part of prosecution to prove their case. There is no direct evidence against the accused persons. P.W.1 did not support to the case of the prosecution. During the course of investigation one Plastic Stool was seized. No one claimed the custody of same. Hence, it would be proper to sale it after the appeal period is over and amount received from the same be credited to the Government.

14. The evidence on record is not sufficient to prove the guilt of the accused persons. There is no direct evidence against the accused persons. In absence of direct evidence the panchnama cannot be taken into consideration as they are corroborative in nature. Evidence of the prosecution is not sufficient to foster the liability upon the accused persons for the alleged offences. Hence, I answer point No. 1 to 3 in the negative and for point no. 4, I am going to pass following order.

ORDER

A. Accused no. 1 Mr. Pravin Bhayyaji Kinnake, Age-32, Occupation-Service and the accused no. 2 Mrs. Shakuntala Bhayyaji Kinnake, Age-60, Occupation- household, Both R/o. Khapari, Tq. Warora, Dist. Chandrapur are acquitted vide Section 248(1) of the Code of Criminal Procedure for the offences punishable under Sections 326, 504 and 506 r.w.34 of the Indian Penal Code.

B. Their bail bond stands cancelled.

C. During the course of investigation one Plastic Stool was seized. Hence, it would be proper to sale it after the appeal period is over and amount received from the same be credited to the Government.

D. As per Section 437-A accused persons to execute a P.R of Rs.5,000/- with one solvent surety of like amount each to appear before the Higher Court in case of appeal and such bail shall be remained in force for six months from the date of this Judgment.

(Dictated and pronounced in open Court.)

Place: Warora.
Date : 12/01/2023

(Prathamesh N. Rokade)
Judicial Magistrate First Class,
Warora, Dist- Chandrapur

C E R T I F I C A T E

“I affirm that the contents of this P.D.F. file Judgment are same word for word as per original Judgment.

Name of Stenographer : Shri. G. D. Kite,

Court Name : J.M.F.C. Warora.

Date of Judgment : 12/01/2023

Judgment signed by
Presiding Officer on : 12/01/2023

Judgment uploaded on : 12/01/2023