

MHKO010027372018



Presented on : 30.06.2018

Registered on : 02.07.2018

Decided on : 02.07.2026

Duration : Ys Ms Ds.
08 00 02

IN THE COURT OF SESSIONS JUDGE AT KOLHAPUR

(Presided over by **A.M.Patil**, Sessions Judge)

Criminal Appeal No. 114/2018

In

Regular Cri. Case No.13/2014

Exh. 31

**State of Maharashtra,
Thr. Murgud Police Station.**

**... Appellant
(Prosecution)**

Versus

1. **Gajanan Tukaram Jatrate,**
Age : 43, Occu. Agriculture,
R/o. Hamidwada, Tal. Kagal,
Dist. Kolhapur.
2. **Tukaram Shivappa Jatrate**
(Abated)
3. **Sou. Housabai Tukaram Jatrate ... Respondent**
(Abated) (Accused)

Appearances:

Smt. A. A. Patole, the learned APP for the State.

Shri. N. J. Shinde, the learned Adv. for the Respondents

JUDGMENT

(Delivered on **02th Day of July, 2026**)

1. Present appeal is filed U/Sec. 378 of the Code of Criminal Procedure, 1973 ('Cr. P. C. for short). It is filed against the judgment and order in R.C.C. No.13/2014 dated 03/04/2018 passed by the learned Judicial Magistrate First

Class, Kagal After scrutinizing the evidence, the learned Trial Court acquitted the respondents of the offences U/Secs. 354, 324, 323 and 504 r/w. 34 of Indian Penal Code,1860 ('IPC' for short). The appellant State has challenged the acquittal on the ground that the said judgment and order of acquittal is illegal and liable to be quashed and set aside.

2. The parties are hereinafter referred to as per their original status in the case for convenience.

3. The case of the prosecution in brief is as under;

On 04/01/2014 at about 2.00 p.m. when the informant and her husband asked the accused No.1 Gajanan to vacate the house, he abused them. At about 4.00 p.m. informant and her husband put lock on the door. At about 4.15 p.m. Gajanan broke opened the lock. When the informant asked about broke opened the lock, then, the accused No. 1 Gajanan abused her in filthy language and tore her blouse and outrage her modesty. When her husband came inside that time, Gajanan beat him by *Katavani* (iron rod). Thereafter, Tukaram and Housabai beat the informant and her husband by the blows of kick and fists. As such, the informant lodged report at Kagal police station.

4. On receipt of report, the PSO, Murgud police station has registered the report vide C. R. no. 4/2014 for the offence U/Sec. 354, 324, 323, 504 r/w. 34 against the

accused persons and handed over the investigation to PHC Shri. S.T. Khandale. During investigation, he conducted spot panchanama. He arrested the accused persons and conducted seizure panchanama of weapon. He also recorded the statement of the material witnesses and he obtained medical certificate of informant and her husband. After completing other formalities, he filed charge sheet before Court.

5. The learned Trial Judge framed the charge against accused persons Exh.26 for the offences punishable under Sections 354, 324, 323 and 504 r/w. 34 of IPC.

6. The prosecution examined in all 8 witnesses, Informant/victim (PW1) is examined at Exh. 41, injured eye witness/husband of the victim (PW2) at Exh.47, Vinayak Yashwant Tibile eye witness (PW4) at Exh. 61, panch witness on spot panchanama namely Avinash Jatrate (PW3) and Pandurang Maruti Kadam (PW5) are examined below Exh. 51 and Exh. 62 respectively. Sanjay Bongarde (PW6) panch on seizure panchanama is examined at Exh. 68, Medical Officer Dr. Shamsunder Keraba Sagar (PW7) at Exh. 77 and Investigating Officer, ASI Shri. S. T.Khandale (PW8) below Exh. 81.

7. The prosecution has also relied on the following documentary evidence ;

Sr. No.	Documents	Exhibit
1	Report dtd. 04/01/2014	Exh. 42/PW1
2	Spot panchanama dtd. 04/01/2018	Exh.63/PW5
3	Medical Certificate of injured/husband of victim	Exh. 78/PW7
4	Medical Certificate of victim	Exh. 79/PW7
5	Seizure panchanama of weapon	Exh.82/PW8
6	Muddemal receipt	Exh.83/PW8
7	Arrest forms of accused persons	Exh.84 to 86 /PW8

8. The statement of the accused under section 313 of the Code of Criminal Procedure was recorded at Exh.91 to 93, in which, they took the defence of false case filed against them.

9. Learned APP Smt. Patole for the appellant State has argued that, the impugned judgment passed by the learned Trial Court is illegal, illogical and against the law and contrary to the evidence on record. Though there was sufficient evidence, the learned Trial Court, failed to appreciate the same and acquitted the accused persons. The informant and other prosecution witnesses has categorically deposed before the Court and they corroborated to each other. Their evidence is consistent and cogent. Hence, she prayed to convict the accused persons by setting aside impugned judgment.

10. Per contra, Learned Adv. Shri. Shinde has submitted his written notes of arguments below Exh. 24. It

is submitted that, the impugned judgment passed by learned Trial Court is correct and legal. The learned trial Court rightly appreciated the evidence on record. Hence, he prayed to dismiss the appeal.

11. At the time of passing the impugned judgment, the learned trial Court observed that prior to the incident, there was civil dispute pending between the informant and accused. The testimony of informant (PW1), her husband (PW2) and Vinayak (PW4) are inconsistent on material particulars and does not inspire confidence. The recovery of weapon is not established by prosecution. No independent witness is examined by the prosecution and thereby acquitted the accused persons from above mentioned offences.

12. From the above facts, following points arise for my determination and I have recorded my findings against them for the reasons stated below ;

Sr. No.	POINTS	FINDINGS
1)	Whether the prosecution proved that accused Gajanan used criminal force against the informant and thereby outrage her modesty?	...No.
2)	Whether the prosecution proved that, the accused persons in furtherance of their common intention voluntarily caused grievous hurt to husband of informant by means of Katavani (iron rod)?	...No.

- 3) Whether the prosecution proved that, the accused Nos. 1 to 3 in furtherance of their common intention voluntarily caused hurt to informant and her husband by means of kick and fists blows? **...No.**
- 4) Whether the prosecution proved that, the accused Nos. 1 to 3 in furtherance of their common intention insulted the informant and abuse them in filthy language? **...No.**
- 5) Whether any interference is required by this court in the impugned judgment and order ? **...No.**
- 6) What order ? **Appeal is dismissed.**

REASONS

As to Points No.1 to 6 :

13. The above all points are interconnected with each other and hence, to avoid the repetition of evidence, they are taken up together for discussion.

14. In the evidence of victim (PW1) it came on record that, at the time of incident, she was residing at Hamidwada along with her husband. On 04/01/2014, her brother-in-law was residing in the said house. When they went to demand said house, her brother-in-law i.e. accused No. 1 abuse them. At about 4.00 p.m. she put lock on the door of the said house. Accused broke opened the said lock at about.4.15 p.m.. On questioning, the accused No.1

abused her and started manhandling with her. She further deposed that, the accused No. 1 caught hold her shoulder and tore her blouse and tried to ravish her. When she raised shout, her husband (PW2) rush there. When her husband was trying to save her, accused No. 1 assaulted on his head by means of Katavani. Then, accused No. 2 and 3 came there and beat them by the blows of fist and kick. When the accused persons was driving them out of house, Sanjay Thanekar and Vinayak Tibile came there and mediated between them. Thereafter, they went to police station. Police referred her husband to the hospital. In Government Hospital, the wound of her husband was sutured. Because of beating she was also feeling like omitting and dizziness. She lodge her report as per Exh. 42. She identified Katavani as Article 'A'.

15. She was cross-examined by the accused persons at length. During cross-examination she admitted that, since last 8 to 10 years litigation are pending before the Court between them. She also admitted that, one criminal case has been filed by the accused persons against them vide RCC No. 14/2014. The accused also suggested her that, she and her husband entered into the house of accused and beat them, she threw chilly powder on accused, she lodged false report only to extract money and more share and the report is lodged out of anger. This witness denied all these suggestions given by the accused.

16. The prosecution also examined husband of the victim (PW2). In his evidence, he also deposed more or less same as per the testimony of his wife (PW1).

17. The accused cross-examined this witness at length. During cross-examination, he admitted that, the litigation pending between them. He denied the suggestion of the accused to have seen the incident taken place with his wife. The cloths of the witness was soaked with the blood. But those were not seized by the police. He admitted that, Art. A is iron rod. He also admitted that, there is difference in between iron rod and Katvani.

18. Avinash (PW3) did not support to the case of prosecution. Thereafter, the prosecution has examined Pandurang (PW5) to prove the spot panchanama. In his evidence, the spot panchanama was proved at Exh. 63.

19. The prosecution further examined Vinayak (PW4) in his evidence it came on record that, on 04/01/2014, when he was proceeding from road situated in front of house of Mr. Jatrate, that time, Sanjay called him. When he sat in the house of Sanjay, they both heard noise from the house of Mr. Jatrate. They saw the accused persons were beating the informant and her husband by way of kick and fist blows. He also saw that, accused No. 1 was manhandling with the informant/victim (PW1) and assaulted on the head of husband of informant (PW2) by means of Katavani. He also deposed that, he took them to the police station and then to the hospital for treatment.

20. Here it is important to note that, the informant (PW1) is not claiming the presence of Vinayak (PW4) at the time of alleged incident of manhandling with her and at the time of assaulting on head of her husband. She is also not claiming that this witness has taken them either to the police station or to the hospital. Even husband (PW2) is not claiming that this witness has seen the incident of manhandling by the accused No. 1 with her wife.

Sanjay (PW6) did not support to the case of prosecution.

21. In the evidence of Dr. Shamsundar (PW7) it came on record that on 04/01/2014, he examined husband of informant as a medical officer of Rural hospital, Murgud. He found simple injury of CLW 3 X 0.5 X 0.5 cm. over left occipital region and thereby he issued MLC (Exh.78). He also examined the informant (PW1) on her complaint about omitting and thereby he issued MLC (Exh.79).

22. Further prosecution examined IO ASI Mr. Khandale (PW8). During testimony he deposed about the investigation procedure conducted by him i.e. seizure of weapon, recording of statements of witnesses and arrest of accused persons.

During cross-examination, he admitted that, he has not seized the torn blouse of the victim and blood soaked cloths of husband of the victim. He further admitted that, he has not recorded the statements of witnesses mentioned

in FIR and also not seized the documents of ownership of house of accused.

23. From the prosecution's evidence it is seen that, the report was lodged by daughter-in-law and son against the parents and brother. It is also seen that, the civil disputes were pending amongst them since last several years. It is also seen that, there is enmity and quarrel between them.

24. At the time when the incident took place, that time, the informant was residing at Gadhinglaj on rental basis, because of job of her husband. Except, victim (PW 1) and her husband (PW2), the testimony of other witnesses is not having much importance as eye witness to the alleged incident. It is seen that, victim (PW1) and her husband (PW2) have not claimed that, Vinayak (PW4) was present at the time of incident, when accused No. 1 was manhandling with the informant/victim (PW1) and at the time when he assaulted on her husband (PW2). It is also seen that, victim (PW1) and her husband (PW2) had gone to the house where the accused were residing and put lock on the door. It is not the case of the prosecution that the accused persons went on their own and assaulted on victim (PW1) and her husband (PW2). Victim (PW1) and her husband (PW2) do not corroborate the testimony of Vinayak (PW4). Even the prosecution does not claim that, Vinayak (PW4) was eye witness as per charge sheet. It is

also important to note that, the police did not seize torn blouse of victim and blood soaked cloths of the husband of informant. It is also seen that, the husband (PW2) himself denying that the Art. A is a Katavani. He is saying that it is iron rod. But in FIR it is claimed that he was assaulted by Katavani. It is not the case of prosecution that, since beginning of the incident, accused No. 1 Gajanan was holding Katavani, then how and when said Katavani came into the possession of Gajanan. These all circumstances raise doubt on the case of the prosecution. The learned trial Court has considered all these circumstances, while passing the impugned judgment and acquitted the accused persons. Looking to the enmity between the parties and their strained relations inter-se, the possibility of false implication cannot be ruled out. Therefore, there is no necessity to interfere in the impugned judgment. Hence, I answer points No. 1 to 5 in the negative and in answer to point No. 6, I pass the following order.

O R D E R

- 1 The appeal stands dismissed.
- 2 The judgment passed by the learned Judicial Magistrate First Class, Kagal in RCC No. 13/2014 dt. 03/04/2018 is hereby confirmed.
- 3 The accused shall execute P.R. Bond of Rs.15,000/- (Rupees fifteen thousand only) with one surety in the like amount to appear before the Appellate Court as and when notice is issued within six months, as per the provisions of section 437-A of Code of Criminal Procedure.

- 4 The Muddemal property iron bar be destroyed after expiry of appeal period.
- 5 Copy of this judgment along with record and proceeding, be sent to the Trial Court.

(Dictated and pronounced in open Court)

Date : 02.07.2026
Kolhapur.

(A. M. Patil)
Sessions Judge, Kolhapur.
JO Code-MH02456