

MHKO080001862018

Received on : 04/06/2018.

Registered on: 04/06/2018.

Decided on : 22/02/2023.

Duration : Ys. Ms. Ds.

04- 08- 18

Part 'A'

	<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, AT GADHINGLAJ, DISTRICT-KOLHAPUR</u> [Presided over by Onkar R. Deshmukh] <u>J U D G M E N T</u> (Delivered on 22nd February, 2023) <u>Sessions Case No.13/2018</u> <u>Exh.No. 66/A</u>	
	<u>Details of FIR</u> C.R.No.05/2018 Nesari Police Station, Tal. Gadhinglaj, Dist. Kolhapur.	
Complainant/ Prosecution		The State of Maharashtra through Police Station Officer, Police Station, Nesari, Tal. Gadhinglaj, Dist. Kolhapur.
REPRESENTED BY		Shri. S.A.Teli, APP for the State.
ACCUSED		1) Anil alias Ananda Ramu Mangutakar, Age-35 Years, Occupation - Agriculture, R/o. Sambare, Tal. Gadhinglaj, Dist. Kolhapur. (As accused No.1 is absconding hence, trial separated against him) 2) Narayan Maruti Patil, Age-45 Years, Occupation - Agriculture, R/o. Sambare, Tal. Gadhinglaj, Dist. Kolhapur.

REPRESENTED BY	Shri. B.K.Desai, Adv. for the Accused No.1 Smt. L.S.Ramaj, Adv. for the Accused No.2
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Part 'B'

Date of offence	23/02/2018
Date of FIR	24/02/2018
Date of Chargesheet	09/05/2018
Date of Framing of Charges	01/09/2018
Date of commencement of evidence	02/03/2020
Date on which judgment is reserved	08/02/2023
Date of the Judgment	22/02/2023
Date of the Sentencing Order, if any	Accused No.1 is absconding hence, trial separated against him. The accused No.2 is convicted.

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.PC.
1	Anil alias Ananda Ramu Mangutakar ,	24/02/2018	03/ 09 /2018	U/s. 326-A, 392 and 307 r/w. 34 of I.P.C.	During the pendency of trial, accused No.1 Anil alias Ananda Ramu Mangutakar absconded. Therefore, trial of accused	--	--

					No.2 Narayan Maruti Patil is separated.		
2	Narayan Maruti Patil,	24/02/ 2018	26/10 / 2018	U/s. 326- A, 392 and 307 r/w. 34 of I.P.C.	Convicted	For the offence u/s. 307 r/w.34 Rigorous Imprisonment for life and Fine of Rs.50,000/- I.d. R.I. for two years, u/s. 326-A r/w.34 Rigorous Imprisonment for life and Fine of Rs.50,000/- I.d. R.I. for two years and u/s.392 r/ w.34 R.I. seven years and fine of Rs.10,000/- I.d. R.I. six months.	Since 24/02/2018 till 26/10/2018 and 04/04/2019 till today

Part 'C'**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution:-**

RANK	NAME	NATURE OF EVIDENCE
PW1	Renuka Kallappa alias Parshuram Gurav	Injured
PW2	Kallappa alias Parshuram Laxman Gurav	Informant
PW3	Haribhau Vishnu Buva	Panch on spot and seizure panchanama

PW4	Mahendra Dattatraya Ghongadi	Shop owner of Acid
PW5	Dr. Jay Sharad Mirashi	Medical Officer
PW6	Nivrutti Balkrushna Sutar	Police Witness
PW7	Rijwana Gulab Nadaf, API	Police Witness, I.O.
PW8	Dr. Archana Ravindrasingh Pawar	Medical Officer
PW9	Jagannath Gundu Bhuimbar	Panch on seizure panchanama
PW10	Anjali Ajit Patil	Carrier Witness
PW11	Digvijay Dinkar Kamble	Chemist

B. Defence Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.**A. Prosecution:-**

SR.NO.	Exhibit Number	Description
1	Exh.43	FIR
2	Exh.48	Spot and seizure panchanama
3	Exh.49	Memorandum panchanama of accused Anil Mangutkar

4	Exh.51	Seizure panchanama of Bajaj Discovery motorcycle
5	Exh.52	Seizure panchanama of clothes of injured
6	Exh.53	Pan Card of accused Anil Managutakar
7	Exh.55	Injury Certificate of injured Mrs. Renuka Gurav
8	Exh.56	Injury Certificate of injured Mr. Kallappa Gurav
9	Exh.57	Injury Certificate of Kallappa Gurav and Mrs. Renuka Gurav.
10	Exh.61	Memorandum panchanama of accused No.1 Anil Mangutakar
11	Exh.66	Injury Certificate of Kallappa Gurav
12	Exh.67	Injury Certificate of Renuka Gurav
13	Exh.69	Seizure panchanama of clothes of Accused No.1 Anil Mangutkar
14	Exh.76	MLC

B. Defence:-

SR.NO.	Exhibit Number	Description
1	—	—

C. Court Exhibits:-

SR.NO.	Exhibit Number	Description
1	—	—

D. Material Objects:-

SR.NO.	Exhibit Number	Description
1	—	--

1. Accused No.2 Narayan Maruti Patil is facing trial for the offence punishable under Sections 326-A, 392 and 307 read with Section 34 of the Indian Penal Code, 1860 (Hereinafter called as 'the Code').

Case of the prosecution is as follows:-

2. The informant Kallappa alias Parsharam Laxman Gurav lodged report that on 23/02/2018, he went to supply milk and bring flour from the flour Mill. His flour was not ready, therefore, he remained there till 9.00 p.m.. At 9.00 p.m., he returned with his wife. At that time, on Sambare to Kalamawadi road, in front of house of Maruti Appa Patil, accused No.2 Narayan Patil was sitting on the motorcycle and accused No.1 Anil Mangutakar was standing aside him. When their motorcycle reached near them, accused Anil Mangutakar suddenly threw some liquid on the informant and his wife. Therefore, itching started to their eyes. They fell down from the motorcycle and their body was itching like burn. Therefore, he started to abuse the accused. The accused pulled Mangalsutra of wife of informant. The surrounding persons gathered there.

Meanwhile, both the accused ran away and the persons gathered there, took him and his wife to the City Hospital, Kolhapur. In the hospital, his statement was recorded and on report crime registered against accused for the offence punishable under sections 392, 326-A, 307 of the Indian Penal Code.

3. On report, investigation was started and after investigation, PSO Police Station, Nesari filed charge sheet against the accused for the offence punishable under Sections 392, 326-A, 307 r/w.34 of the Indian Penal Code. As the offence is triable by Sessions Court, the learned J.M.F.C., Gadhinglaj committed the case to this Court. On committal, this Court (Shri. A.S.Pratinidhi, Additional Sessions Judge, Gadhinglaj) framed charge against the accused for the offence punishable under Sections 392, 326-A, 307 read with Section 34 of the Indian Penal Code. The accused denied the charges and claimed to be tried. During the pendency of trial, accused No.1 Anil alias Ananda Ramu Mangutakar absconded. Therefore, trial of accused No.2 Narayan Maruti Patil is separated.

4. The points for determination along with findings and reasons thereon are as under:

SR. NO.	POINTS	FINDINGS
1	Whether accused No.2 Narayan Patil in furtherance of common intention with accused No.1 Anil Mangutakar caused permanent damage by throwing acid on the person of informant and his wife ?	Yes.
2	Whether accused No.2 Narayan Patil in	Yes.

	furtherance of common intention with accused No.1 Anil Mangutakar robbed the Mangalsutra of wife of informant ?	
3	Whether accused No.2 Narayan Patil in furtherance of common intention with accused No.1 Anil Mangutakar, threw acid on the person of informant and his wife with such intention or knowledge that it may cause death and thereby attempted to commit murder of informant and his wife ?	Yes.
4	What order ?	Accused No.2 is convicted and case remained pending against accused No.1

REASONS

5. Learned APP submitted that the prosecution proved its case by examining eye witness i.e. persons knew the accused very well. The witnesses clearly deposed how the accused threw acid on them and caused grievous injury. Also the accused committed robbery of Mangalsutra of wife of informant. Prosecution sufficiently proved through medical evidence that injury sustained to the informant and his wife were caused by acid. The seller of Acid identified to accused No.2. Therefore, accused may be convicted.

6. The learned advocate for the accused submitted that

this accused was standing at the side of the road on the motorcycle. He had no relations with accused No.1 Anil Mangutakar. Even to prove presence of accused No.2, they did not file any document to show that accused No.2 Narayan Patil was present with Anil Mangutakar. The injury caused to the informant and his wife is due to the insecticide. Therefore, it cannot be said that those injuries were caused by acid attack. Therefore, due to political rivalry false report filed against this accused. Hence, accused No.2 Narayan Patil be acquitted.

As to Point Nos.1 and 2:-

7. Renuka Gurav (PW1) deposed that she was residing with her family at Sambare in her agriculture land. She used to go at village Sambare to bring flour and other articles from the market and to supply milk. On 23/02/2018 at about 12.00 noon to 6.00 p.m. They went to bring flour from flour mill and to supply the milk. They were returning on motorcycle with flour from the flour mill. When they proceeding, they saw that accused Narayan Patil was sitting on motorcycle and accused Anil Mangutakar was standing at the side of road. When they reached near them, accused Anil Mangutakar threw acid on them. Due to said acid, her husband's face, eyes and other parts of the body burned. Also she sustained burn injuries to her chest, eyes and hand. Both of them fell down. Accused Anil Mangutakar snatched her Mangalsutra and both the accused ran away by motorcycle. When they shouted the surrounding person gathered there and they were taken to Hospital at Kolhapur. She identified the clothes present on her person and present on the

person of her husband at the time of incident.

8. Kallappa alias Parshuram Gurav (PW2), also supported the version of Renuka Gurav and he further deposed that he lodged report at Exh.43.

9. Through the cross-examination the accused tried to prove that these two witnesses could not able to see as there was no light facility. Also accused Narayan Patil suggested that Renuka (PW1) and Kallappa (DW2) had political rivalry with him. But the Witnesses denied all the suggestions. Hence nothing came on record so as to disbelieve on them. Hence on the basis of deposition of these witnesses, it is clear that the accused snatched Mangalsutra by throwing liquid on the witnesses and accused Narayan was present with accused Mangutkar.

10. Dr Jay Mirashi (PW5) deposed that Kallappa (PW2) was admitted in his hospital on 26/02/2018. As per the information given by him, some persons threw acid on him and his wife. 3 days before examination they were admitted in the hospital. He found burn injury on the person of Kallappa(PW2) and Renuka (PW1). Renuka (PW1) was also admitted in their hospital with same history. Renuka (PW1) was having burn injuries up to 35% while Kallappa (PW2) was having burn injury up to 40%. Kallappa (PW2) was having injury to both eyes and Renuka (PW1) was having injury to left. As per his opinion, due to acid eyes might be affected and any person

could loss total eyesight. Accordingly he issued certificate Exh. 55 and 56.

11. Pawar (PW8) deposed that Kallappa (PW2) was admitted in their hospital on 24/02/2018. He was having chemical burn. Nature of injury was grievous. Said injury was 53% chemical burn over the body. Accordingly she issued certificate. Renuka (PW1) was also having 45% deep chemical burn injury. She issued certificate Exh. 67. These two witnesses admitted that if acid failed on body accidentally, these injuries may be possible. Only on the basis of this admission it cannot be said that acid failed on the witnesses accidentally. On the contrary, due to this admission it can be said that injuries sustained to these witnesses were due to acid. It means liquid thrown on the person of Renuka (PW1) and Kallappa (DW2) was nothing but an acid.

12. Haribhu (PW3) deposed that police called him for panchnama along with Jagannath. Said spot was in front of house of Maruti Patil. One Sutar had shown the spot of incident. Police got plastic bottle and soil with liquid. Accused Mangutkar gave memorandum statement. He had shown Lakshmi chemical company. Police called him to seize motorcycle. Police also seized clothes. He identified those clothes. Nothing came in his cross-examination so as to disbelieve on him. On perusal of punchnama at Exhibit 48 and seizure panchnama at Exhibit 52, it finds that timbrel from the spot was seized by the police. Police also seized plastic barrel (bottle) from the spot. Also

seized clothes of eyewitnesses.

13. Anjali Patil (PW10) deposed that she had taken with her muddemal to forensic laboratory and submitted with letter at Exh.72. She admitted that no document to show that she took muddemal with her except letter given to forensic lab. On perusal of said letter at Exhibit 72, it finds that it was addressed to director forensic lab. On said letter senior clerk of forensic lab put endorsement. It means said document is sufficient to prove that Anjali Patil (PW10) gave muddemal to forensic lab.

14. Digvijay Kamble (PW11) deposed that he was working at Kolhapur lab from January 2018 to December 2018. He examine 13 muddemal. He received letter at Exhibit 72. On examination he found that Nitrate and chloride substance where present on those clothes, plastic barrel, soil etc. He also found fluoride and nitrate substance on the clothes of Narayan Patil. Nitrate radical, chloride radical were found on the clothes of Renuka (PW1). He admitted that Sulphuric Acid used to clean pipes of drip irrigation. He also admitted that if acid fell on person accidentally injury may cause. But these admissions are not useful to prove that he did not analyse clothes of accused Narayan Patil, Kallappa (PW2) and Renuka (PW1). On the basis of his deposition and report filed by him it is clear that the acid found on the cloths of accused and Renuka (PW1) and Kallappa (DW2). It means the acid was used to commit crime.

15. Mahendra (PW4) deposed that Mangutkar came to his

shop to purchase acid. He had taken pan-card of Mangutkar. According to him Narayan Patil was present with him. He admitted that he did not know personally every person came to him. It does not mean that he did not identify accused properly. Therefore this witness is sufficient to prove that Mangutkar purchased acid from his shop and accused Narayan was present with him.

16. Nivruti (PW6) deposed that he heard certain hue and cry therefore he went on the road. He saw that Kallappa (PW2) and Renuka (PW1) fell from the vehicle. Inching was present to their eyes. They told that Narayan Patil and Mangutkar threw certain liquid in their eyes. He did not see actual incident. But he reached on the spot immediately and he took Kallappa (PW2) and Renuka (PW1) at hospital. Also they told him that the accused put something in their eyes. The deposition of this witness is useful to corroborate the version of Kallappa (PW2) and Renuka(PW1) vide section 157 of Indian Evidence Act.

17. Accused Narayan Patil is resident of same village where Kallappa (PW2) and Renuka(PW1) reside. Therefore no doubt create about identity of accused Narayan Patil. Except suggestions nothing came on record to prove that Kallappa (PW2) and Renuka(PW1) had any enmity against accused Narayan Patil. Hence they had no reason to implicate this accused falsely. Therefore it is held that evidence on record is sufficient to prove that accused Narayan Patil with accused

Mangutkar committed acid attack on Kallappa (PW2) and Renuka(PW1), committed robbery of gold Mangalsutra and attempted to commit murder of Kallappa (PW2) and Renuka (PW1). Hence, Point Nos.1 to 3 answered in the affirmative.

18. In view of above discussion, the accused Narayan Patil is liable to be convicted for offence punishable under Sections 307, 326-A and 392 of the Indian Penal Code, 1860. The accused is convicted for serious offence. Kallappa (PW2) lost his total eye sight while Rejunka (PW1) lost partial eye sight. Hence, accused is not entitled to get benefit of Probation of Offenders Act.

19. The learned advocate for the accused submitted on sentence that the accused is only bread winner person in his family. His family condition is not so good. His daughter divorce performed. The accused is not a habitual offender. He is in jail for considerable period. Hence, he may be released on already undergone sentence.

20. The learned APP submitted that the offence committed by the accused is against the society. Hence, maximum punishment may be imposed on him. Learned APP further submitted that no compensation was received to Kallappa (PW1). Hence, the appropriate directions may be issued.

21. Heard the accused personally through video

conference. The accused submitted that he has nothing to do with this offence. All the act was done by accused No.1 Anil Mangutakar.

22. There is no dispute that the prosecution did not give evidence that accused Narayan Patil is habitual offender. But the punishment provided for offence under section 326-A is not less than 10 years. Therefore, this Court has no discretion to punish less than 10 years. In this case, the accused caused grievous hurt to the victims, therefore, as per Section 307 of the Indian Penal Code, 1860 the accused is liable for imprisonment for life. On perusal of record it is clear that injury caused to the eyes of witnesses. Also these witnesses sustain burn injury to their body. It shows that these witnesses sustain irreparable injury. Hence the accused are liable for severe punishment. The leniency can be shown to the accused while imposing punishment for robbery under section 392 of the Indian Penal Code.

23. On perusal of record, it finds that, police seized clothes of accused and victims, soil, plastic barrel, one Bajaj Discover Motorcycle and Glass Bottle. Those clothes, soil, plastic barrel and Glass Bottle being worthless are required to be destroyed after appeal period is over. Bajaj Discover Motorcycle is required to be given to its registered owner. Police also seized one gold Mangalsutra. It is required to be returned to the victim as the accused did not claimed ownership over it. But the matter is remained pending against accused No.1 Anil alias Ananda

Ramu Mangutakar. Hence, victim should not change its nature and should produce as and when required by this Court. The record shows that the accused is in jail since 24/02/2018 till 26/10/2018 and from 04/04/2019 till today. No special reason found to discard him the benefit of set-off which he entitled to get under section 428 of Code of Criminal Procedure.

24. In this matter, Kallappa (PW2) and Renuka (PW1) sustained grievous injuries to their eyes. Therefore, they are entitled to get compensation. Said compensation amounts would be in additions compensation received under Victim Compensation Scheme. Kallappa (PW2) did not receive compensation therefore, competent authority is required to be considered his application. Hence, the following order is passed.

ORDER

1. Accused No. 2 Narayan Maruti Patil is convicted for the offence punishable under Section 307 r/w. 34 of the Indian Penal Code, 1860 vide Section 235 (2) of the Code of Criminal Procedure and sentenced to suffer Rigorous Imprisonment for life and fine of Rs.50,000/- (Rupees Fifty Thousand only) in default of payment of fine, the accused shall suffer Rigorous Imprisonment of two years.
2. Accused No. 2 Narayan Maruti Patil is convicted for the offence punishable under Section 326-(A) r/w. 34 of the Indian Penal Code, 1860 vide Section 235 (2) of the Code of Criminal Procedure and sentenced to suffer Rigorous Imprisonment for life and fine of Rs.50,000/- (Rupees Fifty Thousand only) in

default of payment of fine, the accused shall suffer Rigorous Imprisonment of two years.

3. Accused No. 2 Narayan Maruti Patil is convicted for the offence punishable under Section 392 r/w. 34 of the Indian Penal Code, 1860 vide Section 235 (2) of the Code of Criminal Procedure and sentenced to suffer Rigorous Imprisonment for seven years and fine of Rs.10,000/- (Rupees Ten Thousand only) in default of payment of fine, the accused shall suffer Rigorous Imprisonment of Six months..
4. Out of fine amount, Rs.80,000/- (Rupees Eighty Thousand only) be given to Kallappa (PW2) towards compensation and Rs.20,000/- (Rupees Twenty Thousand only) be given to Renuka (PW1) towards compensation and said amount would be in addition to compensation received under Victim Compensation Scheme.
5. Substantive sentence shall run concurrently.
6. The muddemal property i.e. clothes of victim and the accused, Soil, Plastic Barrel and Glass Bottle being worthless be destroyed after appeal period is over.
7. The muddemal property i.e. Bajaj Discover motorcycle be given to its registered owner after appeal period is over.
8. The muddemal property i.e. Mangalsutra be given to Renuka Kallappa Gurav after appeal period is over, subject to condition that she should produce said muddemal before the Court as and when required and not to change its nature.
9. Accused No.2 Narayan Maruti Patil is in jail since 24/02/2018 till 26/10/2018 and from 04/04/2019

till today, the accused be granted set off for said period vide Section 428 of the Code of Criminal Procedure.

10. The copy of judgment be given to accused free of cost.
11. The case shall remain pending against accused No.1 Anil alias Ananda Ramu Mangutakar.

(Onkar R. Deshmukh)

Additional Sessions Judge,
Gadhinglaj.

Date: **22-02-2023**