

MHLA090006382011



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| Duration | : 14Y.10M.2D |

IN THE COURT OF
JUDICIAL MAGISTRATE FIRST CLASS (COURT NO. 3)
AT UDGIR, DIST. LATUR

(Presided over by Shri. Bhalchandra Raosaheb Zende)

Regular Criminal Case No.160/2011
Exhibit No.75/B

FIR No. : 83/2011,

Police Station : Police Station Udgir (Rural), Tal. Udgir, Dist. Latur.

Offence Punishable u/s. : 324, 323 and 504 r/w. sec. 34 of the IPC.

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|--------------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------|
| Prosecution | : | The State of Maharashtra, Through the Incharge of Police Station, Police Station Udgir (Rural), Tal. Udgir, Dist. Latur. |
| Represented by | : | Learned A.P.P. Shri. K. T. Ugalmugle |
| Accused | 1) | Ravindra Subhash Swami, Age : 42 years, Occu. : Agril., |
| | 2) | Mallikarjun Revnappa Swami, Age : 80 years, Occu. : Agril., |
| | 3) | Sangita Ravindra Swami, Age : 34 yrs, Occ. : Agril., |
| | 4) | Chhaya Mallikarjun Swami, Age : 39 yrs, Occ. : Agril., |
| | | Above all the accused are resident of village Tondchir, Tal. Udgir, Dist. Latur. |
| Represented by | : | Learned Adv. Shri. A.Y. Bagmaru |

Part 'B'

| | | |
|----------------------|---|------------|
| Date of offence | : | 17.06.2011 |
| Date of FIR | : | 18.06.2011 |
| Date of Charge sheet | : | 11.07.2011 |

| | | |
|---------------------------------------|---|------------|
| Date of Framing of charges | : | 09.09.2015 |
| Date of commencement of evidence | : | 16.08.2018 |
| Date on which Judgment is reserved | : | 23.04.2026 |
| Date of the Judgment | : | 13.05.2026 |
| Date of the sentencing order (if any) | : | NA |

ACCUSED DETAILS

| Rank of the accused | Name of the accused | Date of arrest | Date of release on bail | Offences charged with | Whether Acquitted or Convicted | Sentence imposed | Period of detention undergone for the purpose of sec. 468 of BNSS |
|---------------------|----------------------------|----------------|-------------------------|--------------------------------------|--------------------------------|------------------|-------------------------------------------------------------------|
| A1 | Ravindra Subhash Swami | 28.06.2011 | 28.06.2011 | U/sec. 324, 323, 504,34 of the IPC. | Acquitted | NA | NA |
| A2 | Mallikarjun Revnappa Swami | 28.06.2011 | 28.06.2011 | U/sec. 324, 323, 504, 34 of the IPC. | Acquitted | NA | NA |
| A3 | Sangita Ravindra Swami | 28.06.2011 | 28.06.2011 | U/sec. 324, 323, 504,34 of the IPC. | Acquitted | NA | NA |
| A4 | Chhaya Mallikarjun Swami | 28.06.2011 | 28.06.2011 | U/sec. 324, 323, 504, 34 of the IPC. | Acquitted | NA | NA |

JUDGMENT

(Delivered on 13.05.2026)

1. The accused are being tried for the offences punishable under sections 324, 323 and 504 read with section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “the IPC” for the sake of brevity and convenience).

2. The prosecution case, as set out *inter alia* in the report dated 18.06.2011 lodged by the informant, namely Sou. Sumanbai Mahalappa

Swami, in brief, is that on 17.06.2011 at about 9.30 p.m., in front of her house near a narrow well, accused Ravindra Subhash Swami was creating a ruckus and loudly proclaiming that the Court had decided the matter in his favour against his first wife and that he would now see the informant. It is alleged that he abused the informant and, when she attempted to pacify him, accused Ravindra Swami assaulted her with a stick. Upon hearing the commotion, her son Somnath Swami came out of the house and tried to intervene. At that time, Ravindra Swami's wife Sangita, his uncle Mallikarjun Swami, and Chhaya Mallikarjun Swami rushed to the spot and allegedly assaulted the informant and her son Somnath. During the said quarrel, Somnath Swami sustained a stick blow on his head allegedly at the hands of accused Ravindra Swami. Thereafter, the informant's husband and other persons intervened and pacified the quarrel. Subsequently, the informant lodged the present report in respect of the incident.

3. Acting upon the above report, police of Police Station Udgir (Rural) have registered a crime bearing No.83/2011 against the accused, for commission of offence punishable under sections 324, 323, 504 read with section 34 of the IPC and the investigation was handed over to NPC/547 Shri. V. S. Phulari. During investigation, the investigation officer has visited the spot of occurrence, draw spot panchnama there, recorded the statements of witnesses, seized the muddemal, collected injury certificates of the informant and other injured person and other documents and after completion of investigation, final report came to be filed against the accused before the Magistrate.

4. Upon appearance of all the accused, copies of final report and police papers came to be supplied to them vide provisions of section 230 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "the BNSS" for the sake of brevity and convenience). On 09.09.2015,

the learned predecessor of this Court has framed charges (Exh.23) against accused No.1 to 4 for commission of offences punishable under sections 324, 323, 504 read with section 34 of the IPC. The charges were read over and explained to them in Marathi language, to which they pleaded not guilty and claimed to be tried.

5. During the course of trial, the prosecution has examined as many as 6 witnesses. The last witness came to be examined on 18.12.2015 and despite more than enough opportunities, the prosecution failed to secure the presence of rest of the witnesses, its evidence came to be closed by passing order below Exh.1. Thereafter, this Court has examined (Exh.64 to 67) the accused persons vide section 351(1)(b) of the BNSS. The defence of the accused is of total denial and false implication.

6. The points for determination along with my findings thereon are as under :

| Sr. No. | Points | | Findings |
|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------|
| 1. | Whether the prosecution proves beyond reasonable doubt that the accused, in furtherance of common intention, voluntarily caused hurt to the informant and witness by means of a deadly weapon i.e. a wooden stick ? | : | In the negative. |
| 2. | Whether the prosecution proves beyond reasonable doubt that the accused, in furtherance of common intention, voluntarily caused hurt to the informant and witness ? | : | In the negative. |
| 3. | Whether the prosecution proves beyond reasonable doubt that the accused, in | : | In the negative. |

| | | | |
|----|-----------------------------------------------------------------------------------------|---|--------------------------------------------------|
| | furtherance of common intention, committed an offence of breach of public peace ? | | |
| 4. | What Order ? | : | Accused stands acquitted vide final order. |

EVIDENCE :

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES :-

A. Prosecution :-

| Rank | Exh. No. | Name of witnesses | Nature of evidence |
|------|----------|-----------------------------------------------|-----------------------|
| PW1 | 36 | Sumanbai Mahalappa Swami | Informant |
| PW2 | 42 | Somnath Mahalappa Swami | Injured Witness |
| PW3 | 43 | Bablu @ Babruwan @ Akash Chandrakant Swami | Eye witness |
| PW4 | 54 | Vyankat Govind Bhandare | witness |
| PW5 | 55 | Dr. Ranidevi Apparao Kadam | Medical Officer |
| PW6 | 59 | Vilas Santram Phulari | Investigation Officer |

B. Defence :- Nil.

C. Court :- Nil.

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS :-

A. Prosecution :-

| Sr. No. | Exh. No. | Description |
|---------|--------------|--------------------------------------|
| 1 | Exh.P-37/PW1 | Report lodged by the informant |
| 2 | Exh.P-38/PW1 | FIR |
| 3 | Exh.P-56/PW5 | Requisition |
| 4 | Exh.P-57/PW5 | Medical Certificate of the informant |
| 5 | Exh.P-58/PW5 | Medical Certificate of PW2 |

B. Defence :- Nil.

C. Court Exhibits :-

| Sr. No. | Exh. No. | Description |
|----------------|-----------------|----------------------------------------------------------------|
| 1 | Exh.C-23 to 27 | Charge and Statements of accused |
| 2 | Exh.C-64 to 67 | Examination of accused No.1 to 4 u/s. 351(1)(b) of the BNSS |

D. Material Objects :-

| Sr. No. | Exh. No. | Description |
|----------------|-----------------|--------------------|
| 1 | MO-1 | A wooden stick |

ADMITTED FACTS :

7. The accused have admitted the lodgment of present report against them. It is undisputed that the accused and the informant are the close relatives *inter se*. It is also admitted fact that it is a cross case.

FINAL ARGUMENTS :

8. I have heard learned APP Shri. K. T. Ugalmugle for the State whereas learned advocate Shri. A. Y. Bagmaru for the accused, for some time. Perused the matters before the Court. The rival submissions would be dealt with at the relevant places hereinafter.

REASONS

AS TO POINTS NO.1 AND 2 :

9. Since the evidence adduced and arguments advanced on these points being interlinked, and to avoid pleonasm and for the sake of brevity, they are taken up altogether for consideration.

10. To bring home the guilt of the accused for commission of offences punishable under sections 324 and 323 read with section 34 of the IPC, the prosecution has to prove beyond reasonable doubt that accused No.1 to 4 in furtherance of common intention, voluntarily caused hurt to the informant and a witness by means of fist and kick blows and deadly weapon as well. To prove these essential ingredients, the

prosecution has examined as much as 6 witnesses and heavily relied upon the evidence of the informant and eye witnesses. At the very outset it is made clear that the informant herein is not only the informant but also injured witness as well. Thus, comparatively her evidence has more sanctity than others.

11. Thus, I begin with the evidence of the informant, namely Sumanbai Swami (PW1). She has testified (Exh.36) in consonance with her report (Exh. P-37/PW1) and has reiterated almost all the contents thereof. To be more specific, she has deposed that in the year 2011, at about 9.00 p.m., the incident occurred in their mason near a narrow well. She further testified that at the relevant time accused Ravindra Swami abused her and assaulted her by means of a stick, thereby causing a bleeding injury. It is further deposed that, at that time, the remaining accused rushed there and assaulted the son of the informant, namely Somnath Swami, by means of a stick. Thereafter, she lodged the instant report (Exh. P-37/PW1).

12. In order to seek corroboration to the evidence of the informant, the prosecution has examined the injured witness, namely Somnath Swami (PW2). He has testified (Exh.42) that on 17.06.2011 at about 9.00 p.m., after hearing a hue and cry from the house of the accused, he immediately rushed there and came to know that his mother had been assaulted at the hands of accused Ravindra Swami. He further deposed that, at the relevant time, accused Ravindra assaulted him near his left eye. He went on to depose that the remaining accused assaulted them by means of fist and kick blows. Another eye-witness, namely Bablu Swami (PW3), has deposed (Exh.43) that on 17.06.2011 at about 9.00 p.m., upon hearing hue and cry, he went to the house of his maternal uncle - Somnath and saw all the accused present there. He further noticed an injury on the head of his maternal grandmother Sumanbai. He went on

to depose that while intervening in the quarrel, his maternal uncle received a stick blow at the hands of accused Mallikarjun Swami. Considering the prosecution evidence, it appears that the evidence of the informant is pivotal and therefore requires strict scrutiny.

13. The informant was subjected to lengthy cross-examination. During her cross-examination, she has categorically admitted that accused No.1 is her nephew. She further admitted that, being the elder aunt of accused No.1, he used to treat her like his mother. Further, she expressed ignorance as to whether Manmathappa Swami had intervened to resolve the quarrel and whether he had sustained injuries in the said incident. However, she denied all the adverse suggestions put to her.

14. Further, the injured witness Somnath Swami (PW2) admitted that he was unaware as to whether the accused had lodged any complaint against them in respect of the quarrel that occurred on 17.06.2011 between 9.00 p.m. and 9.30 p.m. However, he denied all the adverse suggestions put to him. Bablu Swami (PW3) has admitted that he stated for the first time before the Court that, while intervening in the quarrel, accused Mallikarjun Swami had assaulted Somnath Swami on his head.

15. From the aforesaid evidence, it becomes abundantly clear that the accused persons and the informant party are not only neighbours *inter se* but are also closely related to each other. The evidence further discloses that the present case arises out of a counterblast to the quarrel that had taken place between both sides. The defence has consistently taken a specific plea that the accused had not assaulted the informant party and, on the contrary, they themselves were assaulted at the hands of the informant party. The prosecution witnesses have also admitted, to some extent, the existence of previous enmity between the parties.

16. Upon careful scrutiny of the testimonies of the prosecution witnesses, the Court finds that their evidence does not inspire full confidence. Their versions do not appear to be wholly clear, cogent and trustworthy so as to base a conviction thereupon. Material omissions and improvements have surfaced during the course of evidence. The witnesses have not given a consistent and reliable account regarding the actual manner of occurrence and the role attributed to each accused. Furthermore, the admissions elicited during cross-examination probalilise the defence version and create a serious dent in the prosecution story.

17. It is a settled principle of criminal jurisprudence that where two views are possible on the basis of the evidence on record, the view favourable to the accused must prevail. The prosecution is under a bounden duty to prove its case beyond reasonable doubt and cannot derive any advantage from the weakness of the defence. In the present case, the evidence led by the prosecution falls short of the standard required in a criminal trial. Consequently, the credibility of the prosecution witnesses stands materially shaken and their testimonies do not remain wholly reliable even after lengthy cross-examination. Thus, at the least, a reasonable doubt is created regarding the genesis and manner of the alleged incident.

18. Now, the spot of occurrence also requires consideration. In order to establish the scene of occurrence, the prosecution has examined Vyankat Govind Bhandare (PW4). He has categorically testified (Exh.54) that on 17.06.2011 at about 8.00 p.m., while he was present in the Gram Panchayat office, a quarrel had taken place between Ravindra Swami and the accused persons, and thereafter they proceeded towards the police station. He has further specifically deposed that it did not happen that on 17.06.2011 the accused assaulted the informant herein.

19. During the questions put to him in the nature of cross-examination under section 157 of the Bharatiya Sakshya Adhiniyam, 2023, the said witness denied the material contents of the spot panchanama. Though he admitted that he had cordial relations with both parties and that the informant had sustained bleeding injuries, he categorically admitted during cross-examination that he had not actually witnessed as to who assaulted whom. Thus, his testimony does not establish the participation of the accused in the alleged assault.

20. From the aforesaid evidence, it becomes sufficiently clear that nothing favourable to the prosecution has emerged from the evidence of Vyankat (PW4) so far as the actual spot and manner of occurrence are concerned. The prosecution has failed to satisfactorily establish the scene of occurrence through reliable and independent evidence. The testimony of Vyankat (PW4), instead of supporting the prosecution case, creates further doubt regarding the genesis of the incident. Consequently, the Court is constrained to hold that the prosecution has failed to prove the scene of occurrence beyond reasonable doubt.

21. The Medical Officer, Dr. Ranidevi Kadam (PW5), has deposed (Exh.55) that upon examination of patient Sumanbai Swami and injured witness Somnath Swami, she found simple injuries on their persons and accordingly issued medical certificates (Exh. P-57/PW5 and Exh. P-58/PW5). During her cross-examination, she categorically admitted that all columns in the prescribed proforma of the medical certificate are mandatorily required to be filled in. However, she admitted that she had not filled in the remarks column as well as the requisition number in the said certificates. She further admitted that the injuries noted in the certificates were also possible if a person fell on a hard and rough surface.

22. Though the Medical Officer has admitted the possibility of such injuries being caused by a fall on a hard and rough surface, the opinion of an expert witness is merely advisory in nature and is not binding upon the Court. At the same time, the medical evidence on record does indicate that the informant and injured witness had sustained injuries and there is nothing on record to infer that the said injuries were self-inflicted. Therefore, merely because the requisition number and certain particulars were not mentioned in the injury certificates, the same by itself cannot be treated as fatal to the prosecution case. However, such omissions certainly affect the evidentiary value of the medical documents to some extent and require the Court to scrutinize the oral evidence with greater caution.

23. The Investigating Officer Shri. Vilas Phulari (PW6), has deposed regarding the formal investigation carried out by him. During his cross-examination, he has categorically admitted that the present matter is a cross-case and that he had investigated both the cases arising out of the same incident. His evidence further reveals that the informant side in the present case figures as accused persons in the cross-case and that both cases were investigated by one and the same Investigating Officer.

24. The aforesaid aspect assumes significance in the facts and circumstances of the present case. Investigation of cross-cases by the same Investigating Officer is an irregularity which requires cautious appreciation of evidence, particularly when there exist allegations and counter-allegations between both factions. In the present case, it could be safely termed as the investigative flaw. If the said investigative flaw is considered with the evidence on record I hold that it assumes importance in view of the doubtful and inconsistent prosecution evidence already discussed hereinabove. The possibility of prejudice to the accused, therefore, cannot be completely ruled out. Further though the prosecution

has tried to prove spot panchnama at the instance of the Investigating Officer, still considering his evidence no confidence inspires. Thus, I hold that the evidence of the Investigating Officer does not materially improve or strengthen the prosecution case.

25. Emphasizing that the present case is a cross-case, learned advocate Shri. Bagmaru appearing for the accused submitted that, in fact, the accused themselves had sustained injuries at the hands of the informant side. He further contended that the present prosecution is a classic example of a concocted and exaggerated case arising out of previous enmity between closely related neighbours. He went on to submit that considering the strained relations between the parties and the subsequent settlement (Exh.74) arrived at between them, the accused are entitled to the benefit of doubt and deserve acquittal. Per contra, learned APP Shri. K. T. Ugalmugale submitted that the prosecution evidence is cogent, reliable and fully convincing, and therefore no doubt whatsoever arises regarding the prosecution case. He further submitted that although the present case is a cross-case, both cases did not arise out of the same transaction. He therefore urged that the prosecution has successfully proved the guilt of the accused beyond reasonable doubt and that the accused deserve to be convicted in accordance with law.

26. I have thoughtfully considered the rival submissions in the light of the matters on record. Upon careful appreciation of the material on record, it appears that the presence and participation of the accused at the actual scene of occurrence is not free from doubt. The prosecution case is that the accused assaulted the informant and witness Somnath (PW2) by means of a stick and that the said incident was witnessed by Bablu Swami (PW3). Therefore, being an alleged eye-witness, the testimony of Bablu (PW3) requires strict and cautious scrutiny.

27. In this regard, the cross-examination of Bablu (PW3) assumes significance. He has admitted that he stated for the first time before the Court that while intervening in the quarrel, accused Mallikarjun Swami assaulted Somnath Swami on his head. However, the injured witness Somnath Swami (PW2) himself has specifically deposed that accused Ravindra Swami had assaulted him. Thus, there exists a material contradiction regarding the identity of the assailant. One witness attributes the assault to accused Ravindra, whereas another witness attributes it to accused Mallikarjun. Such inconsistency goes to the root of the prosecution case and materially affects the credibility of the alleged eye-witness account.

28. It is a settled principle that when material witnesses make inconsistent statements on vital particulars relating to the occurrence and the role of the accused, the Court is required to approach such evidence with caution. In the present case, the testimony of injured witness Somnath Swami (PW2) does not receive satisfactory corroboration from the evidence of Bablu Swami (PW3). Consequently, the prosecution version regarding the manner of assault and the role played by the accused becomes doubtful.

29. I have considered the aforesaid evidence vis-à-vis the rival submissions. In the backdrop of the admitted fact that the present matter is a cross-case, the discrepancies in the evidence of the informant and injured witness Somnath Swami (PW2) on material particulars assume considerable importance. Further, the informant has herself admitted that accused No.1 used to treat her like his mother. In such circumstances, the allegation that accused No.1 assaulted the informant, who was about 70 years of age, though not impossible, does not appear to be wholly free from doubt in the facts and circumstances of the present case.

30. Moreover, the existence of cross-cases itself probabalises the defence version that the incident was a free fight or mutual quarrel between both sides. The prosecution has failed to place on record clear and independent evidence explaining the genesis of the incident and the precise role played by each accused. Further the examined witnesses are interested witnesses, regard being had to the non examination of witnesses who had intervened in the quarrel. Added to this, both parties have admittedly arrived at a settlement (Exh.74) outside the Court, which further indicates that the dispute was essentially personal and arose out of strained family relations. Taking an overall view of the case, the Court finds that the defence has succeeded in creating a reasonable doubt in the prosecution case. Therefore, the submissions advanced on behalf of the accused deserve acceptance to that extent.

31. Now, it is necessary to examine whether the prosecution has proved that the accused voluntarily caused hurt to the informant and witness Somnath by means of a deadly weapon. In order to establish the same, the informant and Somnath Swami (PW2) have deposed that accused Ravindra assaulted the informant on her head by means of a stick and also assaulted Somnath by means of a stick. The prosecution has further relied upon the seizure of a stick during investigation. However, before appreciating this aspect, the evidence of the Investigating Officer requires consideration.

32. Investigating Officer Shri. Phulare (PW6) has deposed (Exh.59) that on 18.06.2011 he drew the spot panchanama (Exh.60/PW6) in the presence of two panch witnesses and seized a stick from the spot. He has proved the contents thereof as well as the signatures of the panchas appearing thereon. During cross-examination, he denied the suggestion that he had merely obtained signatures of the panch witnesses on the panchanama without explaining its contents. Thus, his testimony

lends formal support to the prosecution case regarding preparation of the spot panchanama and seizure of the stick from the alleged scene of occurrence.

33. However, mere seizure of a stick (MO1) from the spot by itself is not sufficient to conclusively establish the guilt of the accused. The prosecution is further required to prove, through clear, cogent and trustworthy evidence, that the said weapon was actually used by the accused during the commission of the offence. In the present case, there is no convincing evidence connecting the seized stick with the injuries allegedly sustained by the informant and Somnath. No blood stains or forensic evidence connecting the weapon with the incident have been brought on record. Further, in view of the inconsistent and doubtful ocular evidence already discussed hereinabove, I hold that mere recovery of the alleged weapon and production of injury certificates would not by themselves be sufficient to fasten criminal liability upon the accused.

34. It is fairly settled that the conviction cannot rest upon conjectures or mere suspicion. The prosecution is required to establish an unbroken chain of circumstances and trustworthy ocular evidence pointing unmistakably towards the guilt of the accused. In the present case, the evidence on record falls short of the standard of proof required in criminal jurisprudence. Consequently, the Court finds that the prosecution has failed to prove beyond reasonable doubt that the accused voluntarily caused hurt to the informant and witness Somnath Swami (PW2) by means of the alleged weapon.

35. On the point of hurt caused by means of a deadly weapon, learned advocate Shri. Bagmaru appearing for the accused has taken a strong exception and would submit that the seized stick (MO-1) cannot, by itself, be termed as a deadly weapon. He, therefore, concludes with a

submission that the offence punishable under section 324 of the IPC is not made out under any circumstance.

36. I have duly considered the aforesaid submissions. Admittedly, the seized stick (MO-1) cannot be treated as a deadly weapon *per se*. Whether a particular object assumes the character of a deadly weapon depends upon various factors such as the nature of the weapon, the manner in which it is used, the part of the body targeted, the force employed, and the nature of injuries caused thereby. Therefore, an ordinary stick may, in a given case, become a dangerous or deadly weapon depending upon the attendant circumstances.

37. However, in the present case, the prosecution evidence on this aspect does not inspire full confidence. Though the prosecution has alleged that the informant sustained a bleeding injury on her head due to assault by means of the stick (MO-1), the Investigating Officer has admittedly not seized the blood-stained clothes of the informant. Ordinarily, if a person sustains a bleeding head injury, the clothes worn by such person are likely to contain blood stains. In spite of this, no explanation whatsoever has been offered by the prosecution for non-seizure of such material evidence. This omission assumes significance in the facts of the present case, particularly when the prosecution evidence itself suffers from material inconsistencies and the matter arises out of a cross-case.

38. Further, there is no forensic or scientific evidence connecting the seized stick with the alleged injuries. The prosecution has also failed to establish by cogent and reliable evidence that the stick allegedly seized from the spot was the very weapon used in the commission of the offence. Thus, the essential ingredients required for attracting section 324 of the IPC are not satisfactorily established. In view of these circumstances, the

Court finds substance in the submissions advanced on behalf of the accused. Thus, I hold that the prosecution has utterly failed to prove beyond reasonable doubt the charge punishable under section 324 of the IPC.

39. Though the charge under section 324 of the IPC has not been proved, the evidence on record does indicate that the informant and Somnath (PW2) had sustained certain simple injuries. The informant has deposed that she sustained injuries on her head, whereas Somnath Swami (PW2) has deposed that he sustained injuries near his eye. However, as already discussed hereinabove, the testimony of alleged eye-witness Bablu Swami (PW3) does not satisfactorily corroborate the version of the informant and Somnath regarding the manner of assault and the identity of the assailants. Moreover, material discrepancies exist in the prosecution evidence regarding the actual role attributed to the accused persons. The presence and participation of the accused at the scene of occurrence are also not proved beyond reasonable doubt. The admitted existence of a cross-case, previous enmity between the parties, inconsistencies in the ocular evidence, and deficiencies in investigation cumulatively create a serious doubt regarding the prosecution story.

40. It is a cardinal principle of criminal jurisprudence that the prosecution must prove its case beyond reasonable doubt and the benefit of every reasonable doubt must necessarily go in favour of the accused. In the present case, considering the overall evidence on record, the surrounding circumstances, and the settlement admittedly arrived at between the parties, this Court finds that it would not be safe to hold that the accused voluntarily caused hurt to the informant and injured witness Somnath Swami (PW2). For these reasons, I hold that the prosecution has failed to prove beyond reasonable doubt that the accused voluntarily

caused injuries to the informant and Somnath Swami (PW2). Hence, the charge punishable under section 323 of the IPC also fails.

41. Now, I proceed to examine the applicability of the enabling provision under section 34 of the IPC. In order to attract section 34 of the IPC, the prosecution is required to establish that the criminal act was committed in furtherance of the common intention of all the accused persons. The existence of a prior meeting of minds or a pre-arranged plan is the *sine qua non* for invoking the said provision, though such common intention may develop on the spot in a given case. However, the prosecution must establish the same through cogent and reliable evidence.

42. If the present case is examined on the aforesaid touchstone, it is the prosecution case itself that accused Ravindra was initially present alone at the scene of occurrence and that the remaining accused arrived at the spot only after hearing the hue and cry. Thus, the material on record does not satisfactorily establish any prior concert, premeditation or meeting of minds amongst the accused persons before the alleged incident. Though the prosecution witnesses have attempted to depose in tune with the prosecution case, their evidence suffers from material inconsistencies and lacks the degree of certainty required in a criminal trial. In the backdrop of the admitted cross-case, previous enmity between the parties, doubtful ocular evidence and deficiencies in investigation, the Court does not find sufficient material to infer the existence of common intention amongst the accused persons. Thus, I hold that no prudent man can say with certainty that the accused shared a common intention to commit the alleged offence.

43. Considering the overall matters before the Court, a reasonable doubt arises regarding the prosecution case, particularly as to the manner of occurrence and whether the accused were the actual

authors of the injuries allegedly sustained by the informant and Somnath Swami (PW2). In the instant case, the principal offences are not proved. Further the specific role of any accused is not attributed, and therefore I hold that no enabling provision come into play. At the cost of repetition it is stated that it is a cardinal principle of criminal jurisprudence that when a reasonable doubt arises from the evidence on record, the benefit thereof must necessarily enure to the accused. In the present case, the cumulative effect of the inconsistencies in the prosecution evidence, the admitted existence of a cross-case, the doubtful nature of the ocular testimony, and the settlement admittedly arrived at between the parties creates a substantial doubt regarding the prosecution case. Therefore, the accused are entitled to the benefit of such doubt. In the result, I hold that the prosecution has failed to prove the charges against the accused beyond reasonable doubt. Hence, the accused are entitled to acquittal. Accordingly, I answer Point Nos.1 and 2 in the negative.

AS TO POINT NO. 3 :

44. In order to prove the offence punishable under section 504 of the IPC, the prosecution has come forward with the case that during the course of the quarrel, the accused abused the informant and thereby intentionally provoked breach of public peace. However, upon careful scrutiny of the testimony of the informant, it appears that she has mainly deposed regarding the alleged assault by means of a stick. She has further stated that upon hearing the hue and cry, the neighbours and her son Somnath Swami (PW2) rushed to the spot and, after their intervention, the quarrel came to an end. Thereafter, according to her, they proceeded to the police station for lodging the report.

45. Significantly, the informant has not uttered a single specific word regarding the exact abusive language allegedly used by the accused

or as to how such utterances amounted to intentional insult provoking breach of public peace. Mere vague allegations regarding abuse, without specifying the actual words uttered or the intention behind such utterances, are not sufficient to attract the ingredients of section 504 of the IPC. Further, neither Somnath Swami (PW2) nor Bablu Swami (PW3) has supported the prosecution on this material aspect. Their evidence is completely silent regarding any intentional insult or abusive words allegedly uttered by the accused. Thus, there is no cogent, reliable and convincing evidence on record to establish that the accused intentionally insulted the informant with an intention or knowledge that such provocation would lead to breach of public peace.

46. In the absence of clear and trustworthy evidence regarding the essential ingredients of the offence under section 504 of the IPC, this Court finds that the prosecution case on this aspect becomes doubtful. It is well settled that suspicion, however strong, cannot take the place of proof in a criminal trial. Hence, I hold that the prosecution has failed to prove beyond reasonable doubt the offence punishable under section 504 of the IPC. In the result, I answer Point No.3 in the negative and record my findings accordingly.

AS TO POINT NO. 4 :

47. Consequent to my above findings, I have already held that the prosecution has failed to prove its case beyond reasonable doubt. Thus, the accused needs to be acquitted of the offence punishable under sections 324, 323 and 504 read with section 34 of the IPC and need to be released forthwith.

48. Perusal of record reveals that a wooden stick (MO-1) is seized in the instant case. Since it is useless and worthless, it needs to be destroyed after the period of appeal is over. Further, where the case ends

in acquittal, the bail bonds of accused needs to be cancelled coupled with setting them at liberty forthwith. Furthermore, the bail under section 481 of the BNSS needs to be undertaken from all the accused to ensure their presence before the appellate Court, in the event of appeal. In the result, in answer to point No.4, following order is passed:

ORDER

1. Accused No.1 to 4, named above, are hereby acquitted of the offence punishable under sections 324, 323 and 504 read with section 34 of the Indian Penal Code, 1860 vide section 271(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
2. The bail bonds of the accused stands cancelled and they are set at liberty forthwith.
3. Seized property i.e. a wooden stick (MO-1) be destroyed after the period of appeal is over.
4. The accused shall furnish bail bonds of ₹10,000/- (Ten Thousand rupees only) each and one solvent surety in the like amount as per section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to appear before the higher Court in case of appeal and the same shall be in force for six months from the date of this order.

(Dictated and pronounced in open Court).

Date : 13.05.2026
Place : Udgir.

(Bhalchandra R. Zende)
Judicial Magistrate (First Class),
(Court No.3), Udgir.