

MHSN040000792022



Received on : 24.01.2022
Registered on : 24.01.2022
Decided on : 22.07.2022
Duration : 00-Ys 05-Ms.28-Ds

(Exhibit No.35)

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
ISLAMPUR, DISTRICT SANGLI.**

[Presided over by Jayshri M. Pardeshi]
Adhoc District Judge-1 & Addl. Sessions Judge, Islampur.

SESSIONS CASE NO.12/2022

The State of Maharashtra,
Through Police Station,
Islampur.

... **Complainant.**

Versus

Ashish Ankush Patil,
Age 24 years, Occu. Hotel Manager,
R/o.Kameri, Tal.Walwa,
Dist. Sangli.

... **Accused.**

Appearance :-

Smt. Shubhanji Patil, APP for the State.
Shri. Shri. F. R. Magdum, Advocate for Accused.

**Offences Punishable Under Sections 307, 427, 504 & 506 of the
Indian Penal Code, 1860.**

J U D G M E N T

(Delivered on 22nd day of July 2022)

Accused is facing trial on the basis of charge sheet filed by Islampur Police Station, for the offences punishable under Section 307, 427, 504 & 506 of the Indian Penal Code, 1860.

Brief Facts of prosecution case, are as under :-

(02). On 17/01/2021 informant Rushiraj Patil lodged report contending that, he has Garage by name 'Balaji Auto Mobiles' at Kameri, in the premises of PWD, adjacent to Pune-Bangalore High Way. The bear shop of accused is situated adjacent to his shop. Accused used to pickup quarrels with him under the influence of liquor. On that day at about 06.00 p.m. accused came in front of his shop and asked him to remove his shop from his shop, on the next day otherwise he will kill him. When the informant tried to consolidate, accused abused him and thrown a stone on the board of his shop. Due to which the board and motorcycle in the shop was damaged. When he tried to restrain accused, accused pickup the iron pana in his hand and threatened him. Accused assaulted him by means of said pana on his head. After hearing his voice, Nitin Baravade, Prasad Patil, and Shailesh More rescued him and carried him to private hospital for treatment. Thereafter, he went to Islampur police station and lodged the report.

(03). The offence was registered on 17/01/2021 for the offences punishable under Section 307, 427, 504 & 506 of the Indian Penal Code, 1860 vide C.R.No.29/2021. The Investigating Officer had arrested accused on 12/03/2021. He prepared spot panchanama and

recovery panchanama of articles from the spot. He issued letter for taking blood sample of accused and said blood sent to the Chemical Analyzer, Kolhapur. He recorded statement of witnesses. After completion of investigation he had filed charge-sheet against accused in the Court of learned Judicial Magistrate First Class, Islampur, who in turn committed the case to this Court for trial, as the offences levelled against the accused are exclusively triable by the Court of Sessions.

(04). The charge (Exh.10) has been framed against the accused for the offences punishable under Sections 307, 427, 504 & 506 of the Indian Penal Code, 1860. The contents of the charge were read over and explained to the accused in vernacular, to which he pleaded not guilty and claimed to be tried, vide his plea at Exh.11.

(05). To prove the charge, the prosecution has examined in all 3 witnesses. Thereafter, the prosecution closed the evidence. The defence of the accused is of total denial. The statement of the accused U/sec.313 of Cr.P.C. is recorded. Accused has not examined himself or any other witness.

(06). After hearing Ld. APP Smt. Shubhanji Patil and the Ld. Advocate Shri. F. R. Magdum for the defence, following points arise for my determination and I record my findings against them, for the reasons given below.

Sr. No.	POINTS	FINDINGS
1.	Does prosecution prove that on 17/01/2021 at about 18.00 hours in front of Balaji Automobile Garage at Kameri, Tal.Walwa, Dist.Sangli, accused assaulted informant Rushiraj Vikas Patil by means of iron pana and under such circumstances that if by that act, accused had caused the death of informant, accused would have been guilty of murder ?	In the negative.
2.	Does prosecution prove that on the aforesaid day, date, time and place, accused committed mischief by causing wrongful loss or damage to the motorcycle and board of informant valued at Rs.500/-?	In the negative.
3.	Does prosecution prove that on the aforesaid day, date, time and place, accused intentionally insulted the informant and thereby gave provocation to him intending that such provocation would cause him to break the public peace ?	In the negative.
4.	Does prosecution prove that on the aforesaid day, date, time and place, accused committed offence of criminal intimidation by threatening informant with injury to his person with intent to cause alarm to him ?	In the negative.
5.	What order ?	Accused are acquitted.

REASONS

(07). I have heard rival submissions. Considering rival submissions and evidence on record, I proceed to answer the above Points.

AS TO POINT NOS.1 TO 5 :

(08). The prosecution has examined total 3 witnesses. The informant Rushiraj (PW1) has not supported the case of prosecution on any aspect. He denied that accused has assaulted him. He even denied the contents of FIR. Therefore, the Ld. A.P.P. declared him hostile and sought permission to cross examine him. In his cross examination by Ld. A.P.P., he denied that, there is compromise between him and the accused. Also he denied that, police has recorded his complaint as per his say. Ld. APP took his further cross examination, but nothing incriminating against the accused has evolved in his cross examination. Therefore, much importance cannot be given to the evidence of the informant (PW1) to prove the charges levelled against the accused.

(09). The prosecution has examined ASI Shri.Baliram Mukinda Ghule (PW2) at Exh.22. He stated that, on 17/01/2021 he was on duty as Police Station Officer. On that day complainant Rushiraj Patil came in the police station for giving complaint. He recorded his complaint (Exh.23) as per his say. Thereafter, he has handed over the investigation to API Bharate.

(10) API Ganeshprasad Murlidhar Bharate (PW3) has deposed that, he has investigated C.R.No.29/2021 and recorded spot panchanama and seized the weapon from the spot, by preparing seizure panchanama (Exh.19). He sent the letter (Exh.28) to Medical Officer along with weapon regarding opinion. He issued letter (Exh.29) for taking blood sample of accused and the said blood sample was sent along with letter (Exh.30) to the Chemical Analyzer, Kolhapur. He recorded statements of witnesses. Due to his transfer,

further investigation was carried out by API Arvind Kate and after completion of investigation Shri. Kate filed charge-sheet against accused. His evidence is of formal nature in respect of investigation and recording statements.

(11) The prosecution has not examined any panch witness on the spot and seizure panchanamas. Hence, it can not be said that the spot panchanama and seizure panchanama are duly proved. Also prosecution has not examined medical officer as the accused admitted medical certificates (Exh.20 and Exh.21). The informant (PW1) has not supported the case of prosecution. Therefore, nothing incriminating evidence against accused came on record in respect of assault, mischief by causing wrongful loss, provocation and criminal intimidation. The evidence of ASI Shri.Ghule (PW2) and I.O. Shri.Bharate (PW3) are of formal nature.

(12) Considering the above-said evidence of injured/complainant the prosecution has miserably failed to prove the charges framed against accused. Hence, I answer point Nos.1 to 4 in the negative. In the result, I proceed to pass the following order.

ORDER

1. Accused Ashish Ankush Jadhav is acquitted of the offences punishable under Section 307, 427, 504 & 506 of the Indian Penal Code, 1860 vide Section 235(1) of the Code of Criminal Procedure Code.
2. Bail bonds of the accused stand cancelled.
3. The accused to furnish his PR of Rs.15,000/- and he shall furnish surety of like amount, as per Section 437(A) of the Code of Criminal Procedure.

4. The muddemal property i.e. one iron pana, being worthless, be destroyed, after appeal period is over.

(Dictated and pronounced in open Court.)

ISLAMPUR.

Date : 22.07.2022

**(Jayshri M. Pardeshi)
Additional Sessions Judge,
ISLAMPUR.**

Certificate

I affirm that, the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer	: J. R. More, [Grade-I]
Court	: Adhoc-District Judge-1, Islampur
Date	: 22.07.2022
Order/judgment signed by the	
Presiding Officer	: 30.07.2022
Order/judgment uploaded on	: 30.07.2022