

Filed on	:	18/09/2019
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Decided on	:	28/02/2020
Duration	:	00 Y., 05 M., 09 D.
Exh.	:	_____

**IN THE COURT OF THE ADDL.CHIEF METROPOLITAN MAGISTRATE
4TH COURT, GIRGAON, MUMBAI.
(Presided by R. M. Nerlikar)**

(JUDGMENT U/SEC. 355 OF CRIMINAL PROCEDURE CODE)

- (a) The serial No. of the case : 365/PW/2019
- (b) The date of commission of the offence : 13.05.2019
- (c) The name of the informant (if any) : The State (V. P. Police Station in C. R. No.95/2019)
- (d) The name of the accused persons and their parentage and residence : 1. Sarfraj Bashir Ahmed Shaikh, 28 yrs, R/at : Room no. 3, Masjid Building, Masjid Gulli, P. B. Marg, Mumbai-04.
2. Siraj Bashir Ahmed Shaikh, 37 yrs. R/at : M. G. Shinde Complex, Sopargaon, Nalasopara (W), Dist : Palghar
- (e) The offence complained of or proved : U/Secs. 326, 504, 506 r/w. 34 of Indian Penal Code.
- (f) The plea of the accused and his examination (if any) : Accused pleaded not guilty.
- (g) The final order : Accused are acquitted.
- (h) The date of such order : 28/02/2020

Ld. A.P.P. for the State. : Mr. P. V. Shinde
Ld. Advocate for accused. : Mr. Kadam

J U D G M E N T
(Delivered on 28/02/2020)

Accused Nos. 1 and 2 faced the trial for the offence punishable under sections 326, 504, 506 r/w. 34 of the Indian Penal Code.

2. In short, it is the case of the prosecution that on 13.05.2019 in between 12.00 hours and 14.30 hours at Masjid Building, Masjid Gulli, P. B. Marg, Mumbai-04, in furtherance of common intention accused no. 1 voluntarily caused grievous hurt to informant Mohammad Shahid Mohammad Suleman Mansuri by means of iron pliers and accused no. 2 caused him hurt by shoes, they abused him and threatened to see him, thereby committed an offence punishable u/secs. 326, 504, 506 r/w. 34 of I.P.C.

3. On the basis of the information given by the informant crime against the accused was registered for the offence punishable u/secs. 326, 504, 506 r/w. 34 of IPC. After completion of investigation police submitted chargesheet against the accused.

4. The charge u/sec. 326, 504, 506 r/w. 34 of IPC was framed against the accused at Exh.3. Its contents are read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. Their defence is that of total denial and false implication in the case.

5. Heard the Ld. A.P.P. Mr. P.V. Shinde and Ld. Counsel Mr. Kadam for the accused at length.

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

<u>SR. NO.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Does prosecution prove that, on 13.05.2019 in between 12.00 hours and 14.30 hours at Masjid Building, Masjid Gulli, P.B.Marg, Mumbai-04 in furtherance of common intention accused no. 1 voluntarily caused grievous hurt to informant Mohammad Shahid Mohammad Suleman Mansuri by means of iron pliers and accused no. 2 caused him hurt by shoes and thereby committed an offence punishable under section 326 r/w. 34 of Indian Penal Code ?	No
2)	Does prosecution further prove that on the aforesaid date, time and place the accused in furtherance of their common intention insulted the informant by using abusive language and thereby gave provocation to him intending or knowing that such provocation would cause him to break the public peace and thereby committed an offence punishable under section 504 r/w. 34 of Indian Penal Code ?	No
3)	Does prosecution further prove that on the aforesaid date, time and place the accused in furtherance of common intention threatened the informant to see him and thereby committed an offence punishable under section 506 r/w. 34 of Indian Penal Code ?	No
4)	What order ?	As per final order

REASONS

AS TO POINT NO. 1 TO 3:

7. In order to prove the case prosecution examined informant, Mohammad Shahid Mohammad Suleman Mansuri as P.W.1 at Exh.7, Naim Mohammad Hakimuddin Shah as P.W.2 at Exh. 8, Mohammad Jahid Suleman Mansuri as P.W. 3 at Exh. 9 and Sanjaykumar Murlidharan Gautam as P.W. 4 at Exh. 10.

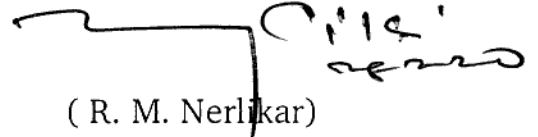
8. P.W. No. 1, 2 and 3 have stated in their deposition before the court that there was quarrel in Masjid lane, when they went to see the same, somebody assaulted them. Therefore, report was lodged by P.W. 1. Besides this they have not stated anything. All the four witnesses examined by the prosecution turned hostile and do not support the prosecution case. Even during the cross-examination by Id. APP nothing incriminating has come on record. They have not stated anything against the accused, therefore, their evidence is of no use to the prosecution case to prove the guilt of the accused for the offence punishable u/secs. 326, 504, 506 r/w. 34. Accordingly, I answered point No. 1), 2) and 3) in the negative.

AS TO POINT NO. 4):

9. The prosecution failed to prove the guilty of the accused for the offences for which they have been chargesheeted. Therefore, they are entitled for acquittal. The chargesheet shows that an iron pliers was seized. However, it being useless, it be destroyed after appeal period is over Hence, the following order.

ORDER

- i) Accused No. 1- Sarfraz Bashir Ahmed Shaikh and No. 2- Siraj Bashir Ahmed Shaikh are hereby acquitted u/sec. 248 (1) of the Code of Criminal Procedure, 1973 for the offence punishable under sections 326, 504, 506 r/w. 34 of the Indian Penal Code.
- ii) Their bail bonds stand cancelled.
- iii) The accused to furnish fresh bail bond of Rs.15,000/- each as per provisions of section 437-A of the Code of Criminal Procedure, 1973.
- iv) Seized muddemal property being useless be destroyed after the appeal period is over.
- v) Judgment is dictated and pronounced in open Court.



(R. M. Nerlikar)
Addl. Chief Metropolitan Magistrate,
4th Court, Girgaon, Mumbai.

Dt.28/02/2020.

Dictated on :- 28.02.2020
Transcribed on :- 28.02.2020
Signed on :- 28.02.2020