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Decided on	:	04/03/2020
Duration	:	00 Y., 02 M., 27 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 ; : 541/PW/2019
- (b) The date of commission of the offence ; : 04.02.2019
- (c) The name of the informant (if any) ; : The State (Tardeo Police Station in C. R. No.37/2019)
- (d) The name of the accused persons and their parentage and residence; : 1. Sarika Uttam Mane, 20 yrs,
2. Naina Uttam Mane , 32 yrs.
3. Vanita Uttam Mane, 50 yrs
All resident of Mahalaxmi
Race Course, Tardeo, Mumbai.
- (e) The offence complained of or proved ; : U/Secs. 324, 504 r/w. 34 of Indian Penal Code.
- (f) The plea of the accused and their examination (if any) ; : Accused pleaded not guilty.
- (g) The final order ; : Accused are acquitted.
- (h) The date of such order ; : 04/03/2020

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

J U D G M E N T
(Delivered on 04/03/2020)

Accused Nos. 1 to 3 faced the trial for the offences punishable under sections 324, 504 r/w. 34 of the Indian Penal Code.

2. In short, it is the case of the prosecution that on 04.02.2019 at about 11.15 hours at Mahalaxmi Race Course, 3rd Line, Stable, Tardeo, Mumbai accused nos. 1 to 3 in furtherance of their common intention voluntarily caused hurt to informant Vijaypal Anandpal Singh by means of stone, a weapon of offence which was likely to cause death and intentionally 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 u/secs. 324 and 504 r/w. 34 of IPC.

3. On the basis of the information given by the informant crime against the accused was registered for the offence punishable u/secs. 324 and 504 r/w. 34 of IPC. After completion of investigation police submitted chargesheet against the accused.

4. Charge against the accused was framed at Exh.2. The contents of charge were read over and explained to the accused persons 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. A. K. Pathak 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 04.02.2019 at about 11.15 hours at Mahalaxmi Race Course, 3 rd Line, Stable, Tardeo, Mumbai accused nos. 1 to 3 in furtherance of their common intention voluntarily caused hurt to informant Vijaypal Anandpal Singh by means of stone, a weapon of offence which was likely to cause death and thereby committed an offence punishable under section 324 r/w. 34 of Indian Penal Code ?	No
2)	Does prosecution further prove that on the aforesaid date, time and place the accused intentionally 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)	What order ?	As per final order

REASONS

AS TO POINT NO. 1 AND 2:

7. In order to prove the case prosecution examined informant, Vijaypal Anandpal Singh as P.W.1 at Exh.7 and Vikram Vijaypal Singh as P.W. 2 at Exh. 8.

8. During oral evidence both the witnesses have stated that they do not know when the incident occurred, there was quarrel in their colony, therefore, crowd gathered there and someone assaulted the informant by stone and abused them, therefore report was lodged. Both the witnesses turned hostile and do not support the prosecution case. 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 under sections 324 and 504 r/w. 34 of the IPC. Accordingly, I answered point No. 1) and 2) in the negative.

AS TO POINT NO. 3:

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. Nothing is shown to be seized, therefore, no order as to disposal of property. Hence, the following order.

ORDER

i) Accused No.1- Sarika Uttam Mane, No.2) Naina Uttam Mane and No. 3) Vanita Uttam Mane are hereby acquitted u/sec. 248 (1) of the Code of Criminal Procedure, 1973 for the offence punishable under sections 324 and 504 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) Judgment is dictated and pronounced in open Court.



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

Dt.04/03/2020.

Dictated on :- 04.03.2020

Transcribed on :- 04.03.2020

Signed on :- 04.03.2020