

Criminal Judgment No. – 1

[Section 325 of I.P.C.]

Received on -

Registered on -

Decided on . -

Duration -

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IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS

SOLAPUR, AT SOLAPUR

(Presided over by Shri. X.Y.Z.)

Regular Criminal Case no.- 24/2020

Exhibit No. – 100

The State of Maharashtra,

Through Jodbhavi Peth Police Station,

Solapur

- Prosecution

V/s

Mr. A.B.C.

Age – 36, years,

Occu.- Business, - Accused

R/o. – 56, Ravivar Peth,

Solapur

Appearance

1. Shri. P.Q.R. – APP for the State
2. Shri. E.F.G. – learned advocate for Accused

JUDGMENT

(Delivered on 18/08/2020)

1. The accused is tried for the offence punishable u/s. 325 of the Indian Penal Code.
2. The prosecution's case in short is as follows –

The incident took place on 03/11/2014 at 9:00 a.m., within the locality of Jodbhavi Peth Police Station, Solapur. The informant Vaman is the brother of the victim Rama. On the relevant day Rama was returning to his house. Informant was in the house. The accused suddenly appeared with a lathi and assaulted Rama. The by-passers Bhola, Mansuklal and Payrelal intervened and rescued Rama. Fracture injury was

caused to rama on his left elbow. The informant, vaman rushed to the spot on hearing the incident. The informant shifted his brother rama for medical treatment. F.I.R. was registered on the statement of the informant.

The pursuant to the F.I.R. Crime No. 46/2014 was registered. During the course of investigation spot and seizure panchanama was conducted. Lathi was seized. The statement of the witness were recorded and the accused was arrested. After collecting sufficient evidence charge-sheet was filled against the accused.

3. Charge framed at exh. No. 50 for the offence punishable u/s. 325 of the I.P.C. was read over and explained to the accused in Marathi language. The accused pleaded not guilty and claim to be tried. As per the examination of the accused u/s. 313(1)(b) of the Criminal Procedure Code and the cross-examination of the prosecution witness the defence of the accused is of total denial.
4. Point for determination along with findings thereon and the reasons thereof as follows –

Sr. No.	Points	Findings
1.	Does prosecution prove that on 03/11/2015 at about 9:00 a.m., at Jodhbhavi Peth, Police Station, the accused voluntarily caused grievous hurt by causing fracture to the left elbow of the witness Rama by inflicting lathi blows and thereby committed an offence punishable u/s. 325 of I.P.C. ?	Yes
2.	What order ?	Accused is convicted

REASONS

5. In order to prove the guilt of the accused the prosecution has examined the following witness.

- a. Informant at exh. no. 60
- b. Eye-witness Bhola (PW1) at exh. no. 65
- c. Eye-witness Mansuklal (PW2) at exh. no. 66
- d. Eye-witness Payrelal (PW3) at exh. no. 67
- e. Rama (PW4) at exh. no. 68
- f. Medical officer (PW5) at exh. no. 70

g. Panch witness on spot and seizure panchanama (PW6) at exh.no. 80

h. The I.O. (PW7) at exh. no. 90

The prosecution has filed the following documentary evidence-

i. F.I.R. at exh. no. 61

ii. Injury Certificate at exh. no. 7

iii. Spot and Seizure Panchanama at exh. no. 81

As to point no. 1

6. The informant has deposed as per F.I.R.(exh.no.61). As per informant (exh.no.60) on the relevant day his brother Rama was returning home. Informant was at home. The accused Mothi Ram Suddenly appeared with the lathi and assaulted Rama. The by-passer Bhola (PW1), Mansuklal (PW2) and Payrelal (PW3) intervened and rescued Rama. Fracture injury was caused to Rama on his left elbow. The informant shifted his brother Rama for medical treatment. The informant has proved the F.I.R. (exh.no. 61)

7. The eye-witness Bhola (PW1), Mansuklal (PW2) and Payrelal (PW3) the victim Rama (PW4) have deposed in consonance

with the evidence of the informant. All the witnesses have identified the accused.

8. The prime evidence of the prosecution e.g. version (exh.no. 60) of the informant is consistence with his narration is the F.I.R. All the witnesses have stand firm during the rigorous cross-examination conducted by the advocate for the accused. Hence there is no reason to disbelieve the evidence of the informant and the eye-witness.
9. The Panch witness (PW6) had deposed as per the contents of the spot and seizure panchanama (exh.no.81). seizure of the lathi (Article A) is duly proved. The medical officer (PW5) had deposed that at the relevant time he treated Rama to whom fracture was caused near left elbow. The said fracture was possible by hard and blunt object like lathi (Article A). medical officer has proved the medical report (exh.no. 71). The I.O., P.S.I. (PW7) has deposed as per the prosecution story. All these witnesses have faced their cross-examination firmly.
10. In all situations concerning the matter before the court it is clear that prosecution has proved the case beyond reasonable doubt and it is proved that accused has voluntarily caused grievous hurt to the Rama (PW4). Accordingly point no. 1 answered in the affirmatively.

As to point no. 2

11. In the light of the above discussion the accused is held guilty. Heard the accused and APP on the point of probation perused the report (exh.no. 95) filed by the Probation Officer. It appears that the accused is in a habit to disturb the peace of the society. The accused was detained in several cases several times. Considering such antecedents of the accused, it would not be proper to extend the benefit of probation to the accused.
12. As such, heard the accused and the APP on the point of sentence. Considering the age and antecedents of the accused and nature of offence, sentence of two years would be proper. It is further seen that the victim Rama (PW4) has sustained injuries and incurred medical expenses due to the act of the accused. Hence it would also be proper to compensate the victim Rama by imposing fine on the accused. Accordingly in answer to point no. 2 following order is passed

ORDER

1. The accused Mothi Ram is convicted for the offence punishable u/s. 325 of the I.P.C. under Sec.248(2) of the Cr.P.C.
2. The accused is sentenced to suffer simple imprisonment for two years and to pay fine of Rs.5,000/-, in default of payment

of fine the accused to further suffer simple imprisonment for one month.

3. Fine amount if deposited, be paid to the victim Rama R/o. 78, Nevi peth, Solapur after appeal period is over.
4. Accused to surrender to his bail-bond.
5. The accused shall be entitled to set off as per Sec.428 of the Cr.P.C. against the period spend in custody. (write dates from this date to that date)
6. Accused to furnish bail in the amount of Rs.5,000/- along with one surety in the like amount as per Sec. 437(A) of the Cr.P.C.
7. Muddemal lathi (Article A) being worthless, be destroyed after appeal period is over.
8. Copy of the judgment be given to the accused free of the cost.

[Pronounced in open court]

Place : Solapur

Sd/-

Date : 18/08/2020

Shri. X.Y.Z.

Judicial Magistrate First Class
Solapur