

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3007 OF 2014
(The State of Maharashtra Vs. Vinod s/o Tukaram Gude and
two others)

Smt. S.D. Shelke, A.P.P. for the applicant
Mr. T.M. Venjane, Advocate for respondents No. 1 to 3

CORAM : M.T. JOSHI, J.
DATE : 15/04/2015

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the acquittal of the present respondents from the offence punishable under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and the offences punishable under section 353, 323, 504, 506 read with section 34 of the Indian Penal Code and under section 7 (1) (d) of the Protection of Civil Rights Act, vide judgement and order dated 03.02.2014, passed by the Adhoc Additional Sessions Judge-1 and Special Judge, Latur in Special Case (Atrocity) No. 18/2012, the State is seeking leave to file appeal.

3. The prosecution case, in short, is that the complainant - Murlidhar Shedolkar was working as Maintenance Surveyor at Latur. About six months prior to the incident, he had measured the land of the present respondent No. 1 - Vinod Gude and as such, this respondent used to meet the complainant in his office. On 27th January, 2012, at about 10.00 a.m., respondent No. 1 Vinod alongwith other respondents came to the office of the complainant. At that time, respondent No.1 Vinod put a grievance that the complainant had incorrectly measured the land and about the same, the complaints regarding corruption were also made to the superior of the complainant. He threatened that those grievances would be made public. In the incident, the complainant was beaten and he was abused over his caste i.e. 'Mahar' by the respondents. In the circumstances, the complaint came to be filed on the next date of the incident in the evening.

4. To prove the prosecution case, in all six witnesses were examined. Those were PW1 Suresh Chavan, panch witness, PW2 Murlidhar - the complainant, PW3 Bharat Suryawanshi - the complainant's unofficial

assistant, PW5 Uttam Sagar - who was working as Surveyor in the concerned office, PW4 A.S.I. R.N. Ganachari and PW6 P.N. Kakade - the Investigating Officer.

5. The learned Special Judge found that no caste certificate regarding the complainant was filed on record. Further, though admittedly, the concerned Police Station is only at a walking distance of five minutes from the office of the complainant, the FIR came to be filed on the next day in the evening. Further, inconsistency in the depositions of the eye witnesses was found.

6. Learned A.P.P. for the applicant/State submits that the complainant's case is supported by the statements of the eye witnesses. In absence of the caste certificate, at the most the respondents could have been acquitted of the offence punishable under section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and/or under section 7 (1) (d) of the Protection of Civil Rights Act. However, according to the learned A.P.P., learned Special Judge has amplified the inconsistencies in the depositions of the eye witnesses.

7. On the other hand, learned counsel for the respondents, submitted that the learned Special Judge has taken into consideration all the facts and evidence on record, as detailed hereinabove and therefore, no leave to file appeal be granted.

8. Upon hearing both sides and on appreciation of all the material on record, in my view, the learned Special Judge has taken a reasonable and probable view in the matter. The delay in filing the FIR, the case of having an unofficial companion of the complainant and even the inconsistencies in the depositions of the eye witnesses, have been rightly taken into consideration by the learned Special Judge. Hence, the leave to file appeal does not deserve to be granted. In the circumstances, the following order:-

9. The application for leave to file appeal is hereby dismissed.

[M.T. JOSHI]
JUDGE