

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1412 OF 2015

The State of Maharashtra
through Kotwali Police Station,
Ahmednagar

.. Applicant
(Orig. Complainant)

VERSUS

1] Amol Manik Khaire, Age 27 years,

2] Sunny Manik Khaire, Age 22 years,

Nos. 1 and 2 R/o Burudgaon Road,
Near Old Octroi Naka,
Ahmednagar

3] Ganesh Vijay Gaikwad, Age : 21 years,
R/o Burudgaon Road, Near Hanuman
Mandir, Ahmednagar

4] Sunil Baban Danke, Age : 23 years,
R/o Bhosle Akhada, Burudgaon Road,
Ahmednagar

.. Respondents
(Orig. Accused)

Mr. P.N. Kutti, A.P.P. for the applicant/State
Mr. N.B. Narwade, Advocate for the respondents

CORAM : M.T. JOSHI, J.

DATE : 10/12/2015

ORAL ORDER :

Heard learned A.P.P. and learned counsel for
the respondents.

2. Aggrieved by the acquittal of the respondents from the offences punishable under section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, under section 143, 324, 323 of the Indian Penal Code and under section 37(1)(3) r/w. 135 of the Bombay Police Act, the State wants to prefer an appeal and, therefore, the present application for leave to file is filed.

3. The prosecution case is that on 13/6/2010, at about 7:30 pm in the evening, the present respondents had assaulted the complainant by fists and kick blows and iron fighter in a square. During the said incident, they also insulted him by uttering insulting words regarding his case as "Chambhardya" ("चांभारड्या"). The medical evidence was also collected.

4. As regards the oral evidence, the learned Sessions Judge/Special Judge found that the incident, as per the prosecution, has occurred within the public view in a square, yet no independent witness was examined. The enmity between the parties due to electioneering is an admitted fact.

. Further, it is alleged by the complainant that fighter - Article 'A' was used in assaulting the complainant. The learned Special Judge examined the said weapon which was a sharp edged weapon. However, PW9 - Dr. Pradeepkumar Tupare has found three contused

lacerated wounds, which could not have been caused by the said sharp edged weapon.

. In that view of the matter, the learned Special Judge has extended reasonable benefit of doubt and acquitted the respondents.

5. Upon hearing both sides, in my view, since the findings of the learned Special Judge are based on the record available before him, grant of leave to file appeal would be an exercise in futility. The Application is therefore dismissed. Leave to file appeal is hereby refused.

[M.T. JOSHI]
JUDGE

arp/