

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

919. CRI.APPLN/2226/2014

THE STATE OF MAHARASHTRA
V/S
GOPINATH MAROTRAO JADHAV AND OTHERS

Mr. P.N.Mule, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 24th July, 2015.

ORDER :

1. The application is filed for grant of leave to file appeal against the judgment and order of acquittal delivered in Special (Atrocities) Case No. 24/2009 by the learned Special Judge (Additional Sessions Judge), Nanded. The respondents are acquitted of the offences punishable under sections 149, 323 etc. of I.P.C. and section 3 (1) (x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Heard the learned APP.

2. Seen the record like evidence, the F.I.R. and also the reasoning given by the learned Special Judge.

3. Allegations are made that in incident dated 5.6.2009, the complainant was assaulted by the accused and during the

incident, Gopinath gave abuses to complainant by taking the name of the caste of the complainant which is a scheduled caste. The quarrel took place on petty count of taking water from public water tap and when somebody was not following queue from the accused side. Evidence is given of the complainant and his relatives, who had rushed to the spot.

4. The record shows that when the incident took place on 5.6.2009, the crime came to be registered on the basis of F.I.R. given on 4.7.2009. There is some record like copy of application given on 16.6.2009 in which similar allegations were made, but the crime was not registered at that time. The learned APP submitted that there was no caste certificate with the complainant and so, the crime is not registered at that time. This contention is not acceptable as only for taking cognizance, caste certificate is necessary and for the purpose of investigation, caste certificate is not necessary.

5. The F.I.R. was given late and police statements are also belated. There is no circumstantial check. The specific allegations were only against Gopinath with regard to giving abuses. The Trial Court has found that the evidence is not convincing and believable. This Court holds that nothing can be achieved by granting leave to the State to file appeal.

6. In the result, the application is rejected. Leave is refused.

[T.V. NALAWADE, J.]

ssc/