

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2157 OF 2015

The State of Maharashtra,
through Police Station,
Police Station Georai,
Tq.Georai, Dist. Beed ..Applicant

Versus

Shaikh Biban Sk. Ratan,
Age 45 years, r/o. Pachegaon,
Tq. Georai, Dist. Beed
and others ..Respondents

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Mr.S.D.Ghayal, APP for applicant - State

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CORAM : M.T. JOSHI, J.
DATE : DECEMBER 02, 2015

PER COURT :

Heard learned A.P.P. for applicant – State.

2] Aggrieved by acquittal of the respondents from
the offences punishable under Section 143, 147,
148, 323, 504 and 506 read with Section 149 of the
Indian Penal Code by learned Judicial Magistrate
F.C., Georai, Dist. Beed vide judgment and order

dated 1st January, 2015 in Criminal Case No.63 of 2012, the State wants to prefer an appeal and therefore, present application for grant of leave to file appeal, is filed.

3] The prosecution case, in short, is as under :-

. That, on 29th September, 2011, in the morning, when injured Atmaram Pawar along with his wife Anita Pawar were proceeding in a bullock cart from their village to Pawarwadi, at that time, at about 8:00 a.m., in front of the Grampanchayat Office, Pachegaon, present respondent no.1 – Sk. Biban came and questioned the injured Atmaram as to how, he dared to harvest the crop from the Inam land. He also abused Atmaram and beat him with kicks and fists. Respondent Shabir assaulted him with stick. Respondent Ratan beat him with fist blows and kicks. Respondent Raju also joined and inflicted a blow of stone on ribs. Respondent Sk.

Rahim caught hold the injured Atmaram while respondent Salim inflicted a stick blow on him. Respondent Jubedabee also caught hold the informant and pulled her hairs. She also beat the informant with fists and kicks.

4] Some of the witnesses like Devidas Pawar, Santram Pawar and Babu Jadhav reached on the spot and rescued Atmaram, injured and his wife Anita i.e. informant. Information was given to the police station. Upon that, P.S.I. Kawde also reached on the spot and took the injured and the informant to the hospital. Thereafter, the complaint was filed and investigation was carried.

5] Before learned Judicial Magistrate F.C., the complainant, her husband i.e. the injured and witnesses Devidas and Sanjay were examined. No medical evidence was placed before learned Judicial Magistrate F.C. While some of the eye

witnesses stated that there was swelling on the waist of the injured, some of the witnesses went on to state that there was bleeding injury to him. The injured, however, specifically deposed that he had no bleeding injury. Witness Devidas went on to state that the injured was having bleeding injuries from his mouth and ear and therefore, his clothes were stained. However, no clothes were seized by the Investigating Officer.

6] Learned Judicial Magistrate F.C. also doubted the testimony of PW 5 – Sanjay as, at one point of time, he deposed that as there was high compound wall, he was unable to see the bullock-cart. There was enmity between the two groups about the title of the land. In the circumstances, learned Judicial Magistrate F.C. extended benefit of reasonable doubt and acquitted the respondents.

7] Upon perusal of the reasons of learned Judicial Magistrate F.C., in my view, since a reasonable and probable view of the matter has been taken, grant of leave to file appeal, would be an exercise in futility. Leave refused.

8] The application is accordingly rejected.

[M.T. JOSHI, J.]

kbp