

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.2802 OF 2014
IN
CRIMINAL APPLICATION NO.2801 OF 2014

The State of Maharashtra,
through PSO Police Station,
Tq. Renapur, Dist. Latur ..Applicant

Versus

1] Machindra s/o. Venkati Bhure,
2] Shivaji s/o. Venkati Bhure,
3] Jalmu @ Janmajay s/o. Venkati
Bhure ..Respondents

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Mrs.B.B.Gunjal, AGP for applicant – State
Mr.N.D.Kendre, advocate for respondents

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CORAM : M.T. JOSHI, J.

DATE : MARCH 18, 2015

PER COURT :

Heard both sides.

2] For the reasons stated in the application, the
application is allowed. Delay caused in filing
the appeal is condoned.

[M.T. JOSHI, J.]

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CORAM : M.T. JOSHI, J.

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PER COURT :

Heard both sides.

2] By consent of the parties, taken up for final
disposal.

3] Being aggrieved by the judgment passed by learned Special Judge, Latur thereby acquitting the respondents – accused of the offences punishable under Section 324, 323, 504 read with 34 of Indian Penal Code; Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; and Section 7(1)(d) of the Protection of Civil Rights Act, the State has preferred present appeal.

4] According to the prosecution, on 21st March, 2011 at about 8:00 am., respondent no.2 untied a she-goat belonging to the complainant. Therefore, when the complainant questioned respondent no.2, at that time, respondent no.2 abused him over his caste, which is specifically mentioned in the F.I.R. When the complainant tried to release the she-goat from the hands of respondent no.2, he picked up a stone and hit it on the head of the complainant due to which, the complainant

sustained bleeding head injuries. Thereafter, the complainant went to Rural Hospital at Poharegaon. Behind his back, all the respondents beat his grandson by abusing over the caste and therefore, on the basis of the F.I.R., crime was registered.

5] Before learned Special Judge, complainant – Namdeo as well as his grandson Ramesh were examined. PW 5 – Ugrasen was an eye witness and other witnesses were panch witnesses and the Investigating Officer. Out of them, PW 5 – Ugrasen did not support the prosecution case and was declared hostile.

6] So far as the complainant and his grandson are concerned, learned Special Judge did not rely over their evidence as the medical evidence was not proved. Learned Judge observed that the medical evidence is withheld. Further, contradictions in the evidence are highlighted by learned Special

Judge as regards the persons who were injured. Though the complainant in the F.I.R. stated that his grandson was injured, in the Court, he deposed that his son was beaten. Further, it was found that the F.I.R. was belated. Therefore, by giving benefit of doubt, the respondents were acquitted.

7] Learned A.P.P. for the applicant – State submits that merely because the eye witness has turned hostile and there were certain contradictions in the evidence, learned Sessions Judge ought not to have acquitted the respondents.

8] Perused the material on record and considered the arguments advanced by learned counsel for the parties. The material on record, as detailed supra, would show that a reasonable and probable view has been taken by learned Special Judge. While the medical evidence was not placed on record, material contradictions, as regards the

injured, were also there. Further, the F.I.R. is belated.

9] In the circumstances, when a reasonable and probable view has been taken by learned Special Judge, this is not a fit case to grant leave to file the appeal.

10] The application is rejected. Leave to file the appeal is refused.

[M.T. JOSHI, J.]

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