

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

905. CRI.APPLN/3866/2014

THE STATE OF MAHARASHTRA
V/S
AKASH GOPALRAO SUPARKAR AND OTHERS

Mr. S.A. Ambad, APP for State/applicant.

CORAM : T.V. NALAWADE, J.
DATED : 14th August, 2015.

ORDER :

1. The application is filed for leave to file appeal against judgment and order of Special Case No. 1/12 which was pending in the Court of Special Judge, Jalna appointed under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The accused are acquitted for the offences punishable under sections 3 (1) (x) of aforesaid Act and also under section 7 (1) (d) of Protection of Civil Rights Act and for the offences punishable under section 324 and 149 of I.P.C. Accused Nos. 3 and 4 belongs to scheduled caste and so, there was no such charge framed against them under the aforesaid Special Act and the charge is framed only for the offences punishable under sections 324 r/w. 149 of I.P.C. Heard the learned APP.

2. This Court has seen the original record and this Court has gone through the reasoning. The incident in question took

place on 27.2.2008 in the premises of accused No.1 - Akash Suparkar. The first informant Ramesh Ratnaparkhe also owns brick kiln and he had employed one Prakash on his brick-kiln. He has given advance of Rs. 15,000/- to Prakash. Prakash had not turned up for doing the work and he had gone to brick-kiln of accused No. 1. Due to that the first informant went to brick-kiln of accused No. 1 along with his son and he questioned as to why accused No. 1 had given employment to Prakash when Prakash had taken advance from the first informant. Quarrel started in the premises of accused No. 1.

3. Allegations are made that accused No. 1 and other accused gave abuses to the first informant by taking the name of his caste which is a scheduled caste and then complainant and his son were assaulted by using handle of spade by accused No.1 and his son and bleeding injuries were caused to them and also to one more person, who had rushed there.

4. The evidence shows that two caste certificates were produced. One was of 'Boudh' and other was of 'Mahar' caste. The abuses were given in the name of his previous caste as per the version given by the first informant. Though there are specific allegations against accused No. 1 that he used spade

and caused bleeding injuries, the incident took place in the premises of accused No. 1 and there are aforesaid circumstances. Three persons sustained simple injuries, but in the place of accused No. 1. In such case, it needs to be ascertained as to whether injuries were caused voluntarily. The Trial Court has come to the conclusion that evidence is not sufficient to prove that the injuries were caused voluntarily. The complainant's side had rushed there due to aforesaid circumstances.

5. Some evidence on the recovery of weapon like spade is given, but the panch witnesses turned hostile. Even if the evidence of independent witness like panch was available, that would not have made much difference. In view of the aforesaid circumstances, this Court holds that the trial Court has not committed any error in acquitting the accused and giving benefit of doubt. Nothing can be achieved by giving permission to the State to file appeal.

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

[T.V. NALAWADE, J.]

ssc/